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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

K.A.

Plaintiffs,

v.

MINDGEEK S.À.R.L, et al.,

Defendants.

Case Nos. 2:24-cv-04786-WLH-ADS

**OMNIBUS MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF MOTION TO  
DISMISS OF DEFENDANTS  
MINDGEEK S.À R.L., MG  
FREESITES LTD, MG PREMIUM  
LTD, MINDGEEK USA  
INCORPORATED, MG GLOBAL  
ENTERTAINMENT INC., AND  
9219-1568 QUEBEC INC.**

**[REDACTED VERSION OF  
DOCUMENT PROPOSED TO BE  
FILED UNDER SEAL]**

Hearing Date: January 31, 2024  
Hearing Time: 1:30 p.m.  
Courtroom: 9B  
Judge: Hon. Wesley L. Hsu

Complaint Filed: June 7, 2024

Trial Date: None Set

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**SUMMARY OF THE ARGUMENT**

This action is one of 14 related lawsuits (the “Related Cases”)<sup>1</sup> filed in this Court by the same plaintiffs’ counsel against the same set of defendants asserting the same claims and arising out of the same allegations that pornographic videos and images of underage individuals were procured and uploaded by third parties to websites allegedly owned or operated by Defendants MindGeek S.à r.l., MG Freesites Ltd, MG Premium Ltd, MindGeek USA Incorporated, MG Global Entertainment Inc., and 9219-1568 Quebec Inc. (collectively, “MindGeek” or the “MindGeek Defendants”<sup>2</sup>). The only substantive distinctions between the Related Cases are confined to a handful of allegations concerning each plaintiff’s individual circumstances, none of which is material to any of the challenges set forth in this Memorandum.

Importantly, the vast majority of the allegations and causes of actions asserted against MindGeek in the Related Cases are identical to those asserted by the plaintiff

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<sup>1</sup> The other actions in the Related Cases are captioned as follows: *L.T. v. MindGeek S.à r.l., et al.*, No. 2:24-CV-04791-WLH-ADS (C.D. Cal. June 7, 2024); *N.L. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04788-WLH-ADS (C.D. Cal. June 7, 2024); *N.Y. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04801-WLH-ADS (C.D. Cal. June 7, 2024); *T.C. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04795-WLH-ADS (C.D. Cal. June 7, 2024); *X.N. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04800-WLH-ADS (C.D. Cal. June 7, 2024); *J.C. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04971-WLH-ADS (C.D. Cal. June 12, 2024); *C.S. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04992-WLH-ADS (C.D. Cal. June 13, 2024); *S.O. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04998-WLH-ADS (C.D. Cal. June 13, 2024); *W.L. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-04977-WLH-ADS (C.D. Cal. June 13, 2024); *L.S. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-05026-WLH-ADS (C.D. Cal. June 14, 2024); *A.K. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-05190-WLH-ADS (C.D. Cal. June 20, 2024); *W.P. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-05185-WLH-ADS (C.D. Cal. June 20, 2024); *L.T. v. MindGeek S.à r.l., et al.*, No. 2:24-cv-07046-WLH-ADS (C.D. Cal. Aug. 20, 2024) (plaintiffs in each of these cases collectively will be referred to as the “Plaintiffs”). On October 9, 2024, the Court entered an Order directing each defense counsel to file one omnibus motion to dismiss in the Related Cases on behalf of the parties that they represent. ECF No. 54 (“Coordination Order”), at 2.

<sup>2</sup> Defendants MindGeek S.à r.l., MG Freesites Ltd (“Freesites”), MindGeek USA Incorporated, MG Premium Ltd, MG Global Entertainment Inc., and 9219-5618 Quebec Inc. (“9219”) dispute Plaintiffs’ allegations that they all own or operate websites, or that they collectively have acted as impermissibly alleged in the complaint. Solely for the purpose of economy, however, Defendants will refer to these entities in this Memorandum as “MindGeek.”

1 in *Fleites v. MindGeek, S.à.r.l, et al.*, Case No. 2:21-cv-04920-WLH-ADS (C.D. Cal.  
2 June 17, 2021) (“*Fleites*”). Specifically, of the 456 paragraphs constituting the  
3 complaint in each of the Related Cases, *444 paragraphs are substantively the same*  
4 as—and the majority are verbatim iterations of—the allegations in the *Fleites* Second  
5 Amended Complaint (“SAC”).<sup>3</sup> Compare *Fleites* SAC ¶¶ 1–447, 463–594, ECF No.  
6 387, with K.A. Compl. ¶¶ 1–310, 313–314, 317–446, 452–456.<sup>4</sup> Therefore, in  
7 addition to their individual deficiencies, the Related Cases suffer from the same  
8 factual and legal infirmities contained in the *Fleites* SAC, as outlined in the  
9 MindGeek Defendants’ motion-to-dismiss briefing in that case.<sup>5</sup> *Fleites*, ECF No.  
10 448. For all the reasons set forth in the *Fleites* motion to dismiss and the additional  
11 reasons stated herein, the Related Cases should be dismissed in their entirety.

## 12 ARGUMENT

### 13 **I. PLAINTIFFS’ CLAIMS ARE BARRED BY SECTION 230**

#### 14 **A. MindGeek Is Not a Content Creator**

15 Like those alleged in the SAC in *Fleites*, Plaintiffs’ claims are barred by  
16 section 230 of the Communications Decency Act (CDA), 47 U.S.C. § 230(c), because  
17 they fail to establish that MindGeek was a content creator such that section 230 would  
18 not apply. Indeed, the very same allegations central to the section 230 inquiry in  
19

20 <sup>3</sup> The factual variations in these 444 paragraphs are limited to the substitution of  
21 plaintiff’s initials for *Fleites*’s name, the striking of certain allegations as to  
defendants other than MindGeek, and certain less detailed alter ego allegations.

22 <sup>4</sup> The same scope of overlap exists with the other 13 complaints. See L.T. Comp.  
¶¶ 1-310, 314-315, 318-319, 321-448, 454-458; N.L. Compl. ¶¶ 1-310, 313, 318,  
320-449, 455-459; N.Y. Compl. ¶¶ 1-310, 314, 322, 326-455, 461-465; T.C. Compl.  
23 ¶¶ 1-310, 314, 318-446, 452-456; X.N. Compl. ¶¶ 1-310, 313, 316-317, 320-447,  
453-457; J.C. Compl. ¶¶ 1-310, 313-314, 318-319 [Causes of Action paragraphs] 1-  
24 138, 134-138; C.S. Compl. ¶¶ 1-310, 314, 317-446, 452-456; S.O. Compl. ¶ 1-310,  
313, 318-447, 453-457; W.L. Compl. ¶¶ 1-310, 312, 320-449, 455-459; L.S. Compl.  
25 ¶¶ 1-310, 314, 317-318, 321-448, 454-458; A.K. Compl. ¶¶ 1-310, 312, 319-448,  
454-458; W.P. Compl. ¶¶ 1-310, 313, 316-445, 451-455; J.L. Compl. ¶¶ 1-310, 318,  
26 320, 326-455, 461-465.

27 <sup>5</sup> In the Coordination Order, the Court specified that Defendants’ omnibus motions  
shall include any case-specific issues raised in any of complaints in the Related Cases  
28 and may incorporate by reference the arguments made by the parties in the motion to  
dismiss briefing in *Fleites*. ECF No. 54, at 2.



1 *Fleites* (*Fleites* SAC ¶¶ 448–462) are echoed in the Related Cases. Specifically, just  
2 as in *Fleites*:

3 1. Plaintiffs allegedly were induced or coerced into engaging in sexual  
4 conduct by a third party. *See* K.A. Compl. ¶ 311; L.T. Compl. ¶ 311; N.L. Compl.  
5 ¶ 311; N.Y. Compl. ¶¶ 311–312; T.C. Compl. ¶ 311; X.N. Compl. ¶ 311; J.C. Compl.  
6 ¶ 311; C.S. Compl. ¶ 311; S.O. Compl. ¶ 311; W.L. Compl. ¶ 311; L.S. Compl.  
7 ¶¶ 311–312; A.K. Compl. ¶¶ 311, 314; W.P. Compl. ¶ 311; J.L. Compl. ¶¶ 309–314.

8 2. Plaintiffs allegedly were filmed and/or photographed engaging in sexual  
9 conduct by third parties. *See* K.A. Compl. ¶ 311; L.T. Compl. ¶¶ 311–313; T.C.  
10 Compl. ¶ 311; X.N. Compl. ¶ 311; J.C. Compl. ¶ 311; W.L. Compl. ¶ 311; L.S.  
11 Compl. ¶¶ 311–312; A.K. Compl. ¶¶ 311, 314; W.P. Compl. ¶ 311; J.L. Compl.  
12 ¶¶ 309–314; *but see* N.Y. Compl. ¶¶ 311–312 (alleging that third party coerced  
13 plaintiff into making a sexually explicit video and taking photographs of herself and  
14 then sending them to third party); N.L. Compl. ¶ 311; J.C. Compl. ¶ 311 (same); C.S.  
15 Compl. ¶ 311 (same); S.O. Compl. ¶ 311.

16 3. The video(s) or photograph(s) taken of the Plaintiffs engaging in that  
17 sexual conduct were allegedly posted by third parties on a MindGeek website, most  
18 notably Pornhub. *See* K.A. Compl. ¶¶ 311, 314; L.T. Compl. ¶¶ 312–313; N.L.  
19 Compl. ¶¶ 311–312; N.Y. Compl. ¶ 313; T.C. Compl. ¶ 311; X.N. Compl. ¶¶ 311–  
20 312, 314; J.C. Compl. ¶¶ 311–312, 314; C.S. Compl. ¶¶ 311–313; S.O. Compl.  
21 ¶¶ 311–312, 314; W.L. Compl. ¶¶ 311, 313; L.S. Compl. ¶¶ 311–313, 315; A.K.  
22 Compl. ¶¶ 311, 314; W.P. Compl. ¶¶ 311–312, 314; J.L. Compl. ¶¶ 315–316.

23 4. At least some, if not all, of the video(s) or photograph(s) posted by those  
24 third parties allegedly involved CSAM. *See* K.A. Compl. ¶¶ 311, 315; L.T. Compl.  
25 ¶ 313; N.L. Compl. ¶¶ 311–312; N.Y. Compl. ¶¶ 311–312; T.C. Compl. ¶ 311; X.N.  
26 Compl. ¶ 311; J.C. Compl. ¶ 311; C.S. Compl. ¶ 311; S.O. Compl. ¶ 311; W.L.

1 Compl. ¶ 311; L.S. Compl. ¶¶ 311–312; A.K. Compl. ¶¶ 311, 314; W.P. Compl.  
2 ¶ 311; J.L. Compl. ¶¶ 309–314.

3 5. Either Plaintiffs or third parties requested that the video(s) or  
4 photograph(s) be removed from the MindGeek website, and the video(s) or  
5 photograph(s) were in fact removed. K.A. Compl. ¶¶ 315–316; L.T. Compl. ¶¶ 316,  
6 318; N.L. Compl. ¶¶ 316–317; N.Y. Compl. ¶ 316; T.C. Compl. ¶ 315; X.N. Compl.  
7 ¶ 315; J.C. Compl. ¶ 315; J.C. Compl. ¶ 312; S.O. Compl. ¶ 315; W.L. Compl.  
8 ¶¶ 313, 316; L.S. Compl. ¶ 316; A.K. Compl. ¶¶ 315–316; W.P. Compl. ¶ 316; J.L.  
9 Compl. ¶¶ 323, 326.

10 Given this extensive overlap with the material elements of the claims alleged  
11 in *Fleites*, Plaintiffs again have failed to establish that MindGeek is the “creator” of  
12 the videos and images at issue for all the same reasons demonstrated in the MindGeek  
13 Defendants’ motion to dismiss in *Fleites*. See *Fleites* Mem. (“*Fleites* MTD”), ECF  
14 No. 448-1 at 3–14. Plaintiffs’ claims therefore are barred by section 230(c)(1).

15 As important, none of the factual allegations in the Related Cases which fall  
16 outside of the five above-listed elements impacts the section 230 analysis for four  
17 primary reasons. First, assertions that the videos or images of Plaintiffs allegedly  
18 continue to exist or to be disseminated are immaterial. See C.S. Compl. ¶ 312,  
19 (“Although Pornhub removed six separate links to the video and photographs”  
20 depicting her, “screenshots of [her] underage body and genitalia remain on the site to  
21 this day.”); W.L. Compl. ¶¶ 315–316 (alleging that although Pornhub disabled  
22 content, Pornhub maintained the “webpage with its title, description, tags, and  
23 comments” and the video of her “continued to proliferate” and “[t]o this day, [she]  
24 has been unable to secure the takedown of the hundreds of re-uploads generated by  
25 the initial Pornhub video.”). Even if such allegations are true, they do not illustrate  
26 any conduct committed by MindGeek that would transform it into a content-producer  
27 such that section 230 immunity would not apply. As explained in the *Fleites* motion  
28

1 to dismiss, “disseminating third party content in essentially the same format does not  
2 equal creation or development of content,” *Fyk v. Facebook, Inc.*, 808 F. App’x 597,  
3 598 (9th Cir. 2020) (internal quotation marks omitted), and such “neutral and generic  
4 actions, even if they spread the reach of some of the offending material, do not defeat  
5 Section 230 immunity,” *Planet Green Cartridges, Inc. v. Amazon.com, Inc.*, 2023  
6 WL 8943219, at \*6 (C.D. Cal. Dec. 5, 2023).

7 Second, the alleged use of “deepfake videos” depicting any plaintiff is  
8 immaterial to the section 230 analysis. In *W.L.*, Plaintiff alleges that “[t]he initial  
9 Pornhub video of [her] was used to create dozens of deepfake videos of W.L. engaged  
10 in sex acts.” *W.L. Compl.* ¶ 317. *W.L.* does not, however, allege that MindGeek is  
11 responsible for creating, generating, or having *anything* to do with those deepfake  
12 videos. The absence of any alleged role of MindGeek in the creation or generation  
13 of these purported “deepfake videos” thus renders them irrelevant to the section 230  
14 analysis. *See Kimzey v. Yelp! Inc.*, 836 F.3d 1263, 1268 (9th Cir. 2016) (finding  
15 absence of allegations that defendant specifically authored or created content  
16 insufficient to overcome section 230 immunity).

17 Third, unsupported allegations of MindGeek as a “content partner” of  
18 GirlsDoPorn, *see J.L. Compl.* ¶¶ 309, 317–322, are irrelevant to the section 230  
19 analysis because they do not tie any specific conduct by MindGeek to the “creat[ion]  
20 or develop[ment] [of] the particular [content] at issue.” *See Carafano v.*  
21 *Metrosplash.com, Inc.*, 339 F.3d 1119, 1125 (9th Cir. 2003).<sup>6</sup> Neither is MindGeek’s  
22 alleged involvement in the creation of a “trailer” of J.L.’s video relevant to the  
23 application of section 230 immunity. J.L. admits that the original content and  
24 updated content were taken and posted by at least two men with no alleged  
25 connection to MindGeek. *J.L. Compl.* ¶¶ 311–312, 316. The subsequent creation of  
26

27 <sup>6</sup> Most of J.L.’s claims also fail for the independent reason that they are barred by  
28 the applicable statutes of limitations. *See infra* at 13, 17–22, 24.

1 a trailer, however, is of no more consequence than the “naming, editing, and tagging”  
2 of videos that are “neutral tools” which may help “carry out what may be unlawful  
3 or illicit searches” but still “d[o] not amount to ‘development’ for purposes of the  
4 immunity exception.” *Fair Hous. Council v. Roommates.com, LLC*, 521 F.3d 1157,  
5 1169 (9th Cir. 2008) (“A website operator who edits user-created content—such as  
6 by . . . *trimming for length*—retains his immunity for any illegality in the user-created  
7 content, provided that the edits are unrelated to the illegality.” (emphasis added)).  
8 Similarly, J.L.’s allegation that MindGeek created “search engine optimization  
9 campaigns” fails to suggest in any way that such optimization was achieved through  
10 something other than neutral tools and therefore not protected. *See id.* at 1167  
11 (explaining that search engines that “do not use unlawful criteria to limit the scope  
12 of searches conducted on them” and “are [not] designed to achieve illegal ends” “play  
13 no part in the ‘development’ of any unlawful searches”).

14 Finally, J.L.’s allegations that MindGeek paid “GirlsDoPorn’s share of the  
15 revenues generated by the sale of the illegal videos on MindGeek’s sites” (J.L.  
16 Compl. ¶ 317) also fail to materially shift the section 230 analysis. J.L., like Fleites,  
17 acknowledges that MindGeek generates revenue on its tubesites through  
18 advertisements, and that it displays advertisements based on algorithms which  
19 analyze data generated solely by users. J.L. Compl. ¶¶ 89, 91 119, 321. Any claim  
20 premised on this user-generated placement of advertising is therefore barred by  
21 section 230. *See Pennie v. Twitter, Inc.*, 281 F. Supp. 3d 874, 890 (N.D. Cal. 2017)  
22 (section 230 barred claim premised on Twitter’s use of targeted ads that were  
23 allegedly “based on what is known about the viewer and what the viewer is looking  
24 at”). J.L. ultimately alleges only that MindGeek “as a matter of course[] transferred  
25 [the] video to its other tubesites” and “did nothing to police and report such content  
26 to the authorities” (J.L. Compl. ¶ 327)—conduct that, even if true, does not defeat  
27 immunity.  
28

1 In sum, Plaintiffs’ complaints suffer from the same fatal flaws as the *Fleites*  
2 SAC, and none of the additional facts alleged by Plaintiffs in the Related Cases  
3 overcomes the bar to liability afforded by section 230 immunity. Plaintiffs’ claims  
4 are therefore barred by section 230(c)(1). *See Carafano*, 339 F.3d at 1125 (section  
5 230 barred invasion-of-privacy claim); *Caraccioli v. Facebook, Inc.*, 700 F. App’x  
6 588, 590 (9th Cir. 2017) (section 230 barred claims for public disclosure of private  
7 facts, intrusion upon seclusion, and false light); *Joude v. WordPress Found.*, 2014  
8 WL 3107441, at \*6 (N.D. Cal. July 3, 2014) (section 230 barred claim for  
9 misappropriation of likeness); *Callahan v. Ancestry.com Inc.*, 2021 WL 783524, at  
10 \*1 (N.D. Cal. Mar. 1, 2021) (section 230 barred claim under Cal. Civ. Code § 3344  
11 for misappropriation of likeness); *Doe v. Reddit*, 2021 WL 5860904, at \*9 (C.D. Cal.  
12 Oct. 7, 2021) (section 230 barred claims for violation of Cal. Civ. Code § 1708.85,  
13 18 U.S.C. §§ 1591, 1595, and 18 U.S.C. §§ 2252A, 2255); *Doe #1 v. Twitter, Inc.*,  
14 2023 WL 3220912, at \*2 (9th Cir. May 3, 2023) (similar); *J.B. v. G6 Hosp., LLC*,  
15 2020 WL 4901196, at \*7 (N.D. Cal. Aug. 20, 2020) (similar); *Doe v. Bates*, 2006  
16 WL 3813758, at \*18-20 (E.D. Tex. Dec. 27, 2006) (similar); *Delfino v. Agilent*  
17 *Techs., Inc.*, 145 Cal. App. 4th 790, 808 (2006) (section 230 barred intentional  
18 infliction of emotional distress claim).

19 **B. On the Facts Alleged, FOSTA’s Exception Does Not Apply**

20 None of the individual circumstances alleged by Plaintiffs brings their claims  
21 within the narrow exception to section 230 immunity articulated in the Fight Online  
22 Sex Trafficking Act (“FOSTA”). As explained in the briefing on the *Fleites* motion  
23 to dismiss, that Act provides that “[n]othing in [section 230] . . . shall be construed  
24 to impair or limit . . . any claim in a civil action brought under section 1595 of title  
25 18 . . . if the conduct underlying the claim constitutes a violation of section 1591 of  
26 that title.” 47 U.S.C. § 230(e)(5)(A) (emphasis added). But like the *Fleites* SAC,  
27 none of the Plaintiffs’ complaints specifies facts sufficient to invoke FOSTA’s  
28

1 exception and save their claims for alleged violation of the federal criminal sex  
2 trafficking statute, 18 U.S.C. §§ 1591, 1595 (Count I in all Plaintiffs' Complaints).  
3 As set forth fully in the *Fleites* papers, "a website's *own conduct* must violate 18  
4 U.S.C. § 1591 for the immunity exception to apply," *Does 1-6 v. Reddit, Inc.*, 51  
5 F.4th 1137, 1143 (9th Cir. 2022) (emphasis added),<sup>7</sup> and just as with *Fleites*,  
6 Plaintiffs here have failed to allege that MindGeek, through its own conduct, has  
7 violated either of the two relevant provisions of section 1591. *See Fleites* MTD, at  
8 9–14.

9 **1. Plaintiffs Have Not Alleged That MindGeek Violated Section**  
10 **1591(a)(1)**

11 The same fatal flaw that precludes *Fleites* from invoking the FOSTA exception  
12 to rescue her claims is present in the Related Cases: Section 1591(a)(1) ("direct  
13 liability") imposes criminal liability on anyone who "knowingly . . . recruits, entices,  
14 harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by  
15 any means a person . . . knowing . . . that the person has not attained the age of 18  
16 years and will be caused to engage in a commercial sex act." 18 U.S.C. § 1591(a)(1).  
17 But not a single plaintiff has alleged any facts that suggest that *MindGeek itself*  
18 "recruited, enticed, harbored, transported, provided, obtained, advertised,  
19 maintained, patronized, or solicited" her, or in any other way "caused" her "to engage  
20 in a commercial sex act." *See id.* Indeed, and as in the case with *Fleites*, each  
21 plaintiff concedes that someone *other than MindGeek* coerced, induced, or  
22 manipulated her into making pornographic videos. K.A. Compl. ¶ 311 ("K.A.'s adult  
23 boyfriend coerced her into oral sex and recorded the encounter."); L.T. Compl. ¶¶  
24 311, 313, 315 ("L.T.'s ex-boyfriend . . . secretly recorded and uploaded these explicit  
25

26 <sup>7</sup> The Ninth Circuit also acknowledged that the limitations of FOSTA allow "only  
27 a limited capacity to accomplish its original goal of allowing trafficking victims to  
28 hold websites accountable." *Id.* at 1145. "However, this is a flaw, or perhaps a  
feature, that Congress wrote into the statute, and is not one we can rewrite by judicial  
fiat." *Id.*

1 videos and images . . . .”); N.L. Compl. ¶ 311 (“N.L.’s boyfriend coerced her into  
2 filming a nude video of herself . . . .”); N.Y. Compl. ¶ 311 (“N.Y. was blackmailed  
3 by now convicted child sex offender, Abdul Hasib Elahi, into sending him sexually  
4 explicit photographs and videos.”); T.C. Compl. ¶ 311 (“T.C.’s . . . boyfriend  
5 videotaped the two engaged in a sex act . . . .”); X.N. Compl. ¶ 311 (“X.N. was  
6 trafficked, abused, and exploited by a sex tourism enterprise perpetuated by now  
7 convicted sex-offenders, Victor Galarza and Herbert Fletcher . . . During one  
8 encounter, X.N. was paid approximately one million Colombian pesos to have sex  
9 with U.S.-citizen, Victor Galarza, while convicted sex-offender, Herbert Fletcher,  
10 recorded the sex acts.”); J.C. Compl. ¶ 311 (“J.C. was secretly recorded performing  
11 oral sex on her then-boyfriend.”); C.S. Compl. ¶ 311 (“C.S. received an unsolicited  
12 message through Facebook, from now-convicted sex trafficking felon, Kamonsak  
13 Chanthasing, who posed as a female, and demanded that C.S. send video clips and  
14 photographs of herself masturbating wearing her middle school uniform. Although  
15 C.S. initially refused, she ultimately relented . . . .”); S.O. Compl. ¶ 311 (“S.O. was  
16 trafficked, abused, and exploited by a sex trafficking enterprise and coerced into  
17 making a ten minute sexually explicit video of herself . . . directed by an individual  
18 through a BIGO livestream.”); W.L. Compl. ¶¶ 311, 313 (making reference to a non-  
19 consensual video recorded by W.L.’s sexual abuser); L.S. Compl. ¶¶ 311–312 (“L.S.  
20 was trafficked, abused, and exploited by a sex tourism enterprise perpetuated by now  
21 convicted sex-offenders, Victor Galarza and Herbert Fletcher. . . . L.S. was recruited  
22 by Galarza, a U.S. citizen, through social media and coerced to have recorded sex for  
23 money.”); A.K. Compl. ¶ 311 (“A.K. was coerced by two boys from a neighboring  
24 high school . . . to have sex with each of them separately [and a]pproximately nine  
25 months later, A.K. learned that the boys had recorded the sex acts without her  
26 knowledge and consent and uploaded the two videos to MindGeek’s tubesites,  
27 including Pornhub, through an unverified account.”); W.P. Compl. ¶ 311 (“W.P. was  
28



1 trafficked, exploited, and abused by now-convicted human trafficker, Thanawut  
2 Pawalee, and coerced to engage in recorded sex for compensation.”); J.L. Compl. ¶  
3 309 (“J.L. was solicited, recruited, enticed, and coerced by GirlsDoPorn through  
4 fraud, force, and coercion to engage in recorded sex acts.”). None of these other  
5 parties’ allegedly unlawful conduct can be imputed to MindGeek. *See Reddit*, 51  
6 F.4th at 1143.

7 Further, as explained in the *Fleites* MTD, MindGeek’s alleged conduct related  
8 only to previously created and uploaded images and videos of Plaintiffs. Plaintiffs  
9 do not allege—and cannot prove—that MindGeek took any actions *upon Plaintiffs*  
10 *themselves*. *Id.* at 9–10. Indeed, as in the *Fleites* SAC, Plaintiffs’ own allegations  
11 concede that pivotal point. *See, e.g.,* W.P. Compl. ¶ 322 (alleging that MindGeek  
12 “recruit[ed], entice[d], harbor[ed], transport[ed], provide[d], obtain[ed], advertise[d],  
13 maintain[ed], patronize[d], or solicit[ed] *videos and images depicting CSAM*”)  
14 (emphasis added); J.L. Compl. ¶ 332 (same); A.K. Compl. ¶ 325 (same); L.S. Compl.  
15 ¶ 325 (same); W.L. Compl. ¶ 326 (same); S.O. Compl. ¶ 324 (same); C.S. Compl. ¶  
16 323 (same); J.C. Compl. Ct. I, at ¶ 5 (same); X.N. Compl. ¶ 324 (same); T.C. Compl.  
17 ¶ 323 (same); N.Y. Compl. ¶ 332 (same); N.L. Compl. ¶ 326 (same); L.T. Compl. ¶  
18 325 (same); K.A. Compl. ¶ 323 (same). This is precisely the “depicting” that *Fleites*  
19 has alleged, and it no more constitutes actionable sex-trafficking in these 14 cases  
20 than it does in *Fleites*. *See, e.g., Doe #1 v. Twitter*, 2023 WL 3220912, at \*2 (9th  
21 Cir. May 3, 2023) (“[T]he district court correctly concluded that Twitter’s alleged  
22 conduct relates only to CSAM depicting Plaintiffs, not to their persons (as required  
23 to implicate a direct violation of the TVPRA).”). Plaintiffs simply have not alleged  
24 that MindGeek violated section 1591(a)(1).

## 25 **2. Plaintiffs Have Not Alleged That MindGeek Violated Section** 26 **1591(a)(2)**

27 Just as none of Plaintiffs’ allegations alters the section 1591(a)(1) arguments  
28 articulated in the *Fleites* motion to dismiss, so too do their section 1591(a)(2)



1 deficiencies remain irreparable. As explained in the *Fleites* papers, section  
2 1591(a)(2) imposes criminal “beneficiary liability” on anyone who “knowingly . . .  
3 benefits, financially or by receiving anything of value, from participation in a venture  
4 which has engaged in an act described in violation of [section 1591(a)(1)].” 18  
5 U.S.C. § 1591(a)(2). But significantly, “[p]articipation in a venture’ means  
6 knowingly assisting, supporting, or facilitating a violation of [section 1591(a)(1)],”  
7 *id.* § 1591(e)(4), and requires knowing participation in a trafficking venture involving  
8 a *particular victim*. See, e.g., *B.M. v. Wyndham Hotels & Resorts, Inc.*, 2020 WL  
9 4368214, at \*5 (N.D. Cal. July 30, 2020). It also requires that “*the defendant must*  
10 *have actually ‘engaged in some aspect of the sex trafficking.’” Reddit*, 51 F.4th at  
11 1145 (emphasis added). “In a sex trafficking beneficiary suit *against a defendant-*  
12 *website*, the most important component is the *defendant-website’s* own conduct—its  
13 ‘participation in the venture.’” *Id.* at 1142 (emphasis added). “A complaint against  
14 a website that merely alleges trafficking by the website’s users—without the  
15 participation of the website—would not survive.” *Id.*

16 Plaintiffs have not alleged a single new fact in any of the Related Cases that  
17 brings MindGeek’s alleged conduct within the ambit of Section 1591(a)(2). Instead,  
18 the only material allegations offered in these cases *exactly match* the flawed  
19 allegations offered in the *Fleites* SAC. Compare *Fleites* SAC ¶ 468, with K.A.  
20 Compl. ¶ 324, L.T. Compl. ¶ 326, N.L. Compl. ¶ 327, N.Y. Compl. ¶ 333, T.C.  
21 Compl. ¶ 324, X.N. Compl. ¶ 325, J.C. Compl. Ct. I ¶ 6, C.S. Compl. ¶ 324, S.O.  
22 Compl. ¶ 325, W.L. Compl. ¶ 327, L.S. Compl. ¶ 326, A.K. Compl. ¶ 326, W.P.  
23 Compl. ¶ 323, and J.L. Compl. ¶ 333; compare *Fleites* SAC ¶ 79, with K.A. Compl.  
24 ¶ 82, L.T. Compl. ¶ 82, N.L. Compl. ¶ 82, N.Y. Compl. ¶ 82, T.C. Compl. ¶ 82, X.N.  
25 Compl. ¶ 82, J.C. Compl. ¶ 82, C.S. Compl. ¶ 82, S.O. Compl. ¶ 82, W.L. Compl. ¶  
26 82, L.S. Compl. ¶ 82, A.K. Compl. ¶ 82, W.P. Compl. ¶ 82, and J.L. Compl. ¶ 80.  
27 This same redundancy is found in each of the other allegations relevant to section  
28

1 1591(a)(2) and established as deficient in *Fleites*. Compare *Fleites* SAC ¶¶ 451, 453,  
2 462, 468, 470, 471, 515. Because Plaintiffs have alleged nothing more to show that  
3 MindGeek engaged in sex trafficking for purposes of section 1591(a)(2) in these 14  
4 complaints, the *Fleites* MTD arguments apply with equal weight in favor of  
5 dismissing all claims premised on those deficient allegations. See *Fleites* MTD, at  
6 10–14.

7 **II. EVEN IF NOT BARRED BY SECTION 230, PLAINTIFFS’ CLAIMS**  
8 **INDEPENDENTLY FAIL**

9 **A. As in *Fleites*. Plaintiffs’ Counts I, IV, and XV Fail to State Claims**  
10 **for Violation of Either Federal or State Sex-Trafficking Laws**

11 18 U.S.C. § 1595(a) and Cal. Civ. Code § 52.5 create federal and state civil  
12 causes of action, respectively, for victims of sex trafficking. The 14 Plaintiffs here  
13 have alleged nothing different than what was alleged in *Fleites* in a futile effort to  
14 state a claim under either provision. As in *Fleites*, then, Counts I, IV, and XV of all  
14 Complaints must be dismissed.

15 **1. Plaintiffs Have Not Sufficiently Alleged a Violation by**  
16 **MindGeek of the Federal Sex-Trafficking Laws (18 U.S.C.**  
17 **§§ 1591, 1594, 1595)**

18 Section 1591 establishes criminal liability for anyone who “knowingly . . . in  
19 or affecting interstate or foreign commerce . . . recruits, entices, harbors, transports,  
20 provides, obtains, advertises, maintains, patronizes, or solicits by any means a person  
21 . . . knowing . . . that the person has not attained the age of 18 years and will be caused  
22 to engage in a commercial sex act.” 18 U.S.C. § 1591(a). But as established *supra*  
23 and at length in the *Fleites* MTD, Plaintiffs have failed to plead any facts showing  
24 that MindGeek committed any acts in violation of Section 1591, particularly facts  
25 sufficient to establish that any Plaintiffs were “forced,” “lured,” “controlled,” or  
26 otherwise trafficked by *MindGeek*, or that *MindGeek* “cause[d]” them “to engage in  
27 a commercial sex act,” 18 U.S.C. § 1591(a)(1)–(2), or in any way “knowingly”  
28

1 benefitted from participating in a venture with the *non*-MindGeek actors (i.e., the alleged  
2 abusers, convicted sex traffickers, or ex-boyfriends) who coerced or manipulated  
3 Plaintiffs into creating the relevant content. *See Fleites* MTD, at 15–16. Instead, these  
4 14 Plaintiffs’ allegations, as in *Fleites*, amount to no more than, at best, MindGeek’s  
5 turning of a blind eye, which is insufficient to plead a violation of section 1591. *See*  
6 *Reddit*, 51 F.4th at 1145.

7 Plaintiff J.L.’s federal sex-trafficking claims fail for the additional reason that  
8 they are barred by the applicable 10-year limitations period. *See* 18 U.S.C. 1595(c);  
9 *Castillo v. CleanNet USA, Inc.*, 358 F. Supp. 3d 912, 941 (N.D. Cal. 2018) (“the  
10 federal trafficking claim has a 10-year statute of limitations”); *J.M. v. Choice Hotels*  
11 *Int’l, Inc.*, 2022 WL 10626493, at \*6 (E.D. Cal. Oct. 18, 2022) (“No action may be  
12 maintained under [§ 1595] unless it is commenced not later than ... 10 years after the  
13 cause of action arose.” (citing 18 U.S.C. § 1595(c)(1)). Viewed in the light most  
14 favorable to her, J.L.’s allegations concede that more than 10 years have passed  
15 between 2008, when she turned 18 years old, and August 20, 2024, the date on which  
16 she filed her complaint. *See* J.L. Compl. ¶¶ 309–310 (alleging that she was 17 years  
17 old in 2007; she therefore turned 18 years old in 2008). Counts I and IV of Plaintiff  
18 J.L.’s complaint therefore must be dismissed as time-barred.

19 **2. Plaintiffs’ Count XV Equally Fails to State a Claim under**  
20 **Cal. Civ. Code § 52.5**

21 Likewise, California law provides that, “[a] person who *causes, induces, or*  
22 *persuades, or attempts to cause, induce or persuade,* a person who is a minor at the time  
23 of commission of the offense to engage in a commercial sex act, with the intent to effect  
24 or maintain a violation of Section . . . 311.1 . . . is guilty of human trafficking.” Cal.  
25 Pen. Code § 236.1(c) (emphasis added). Here, too, Plaintiffs have not alleged any  
26 materially different facts than those alleged by *Fleites* in her unavailing attempt to  
27 establish that *MindGeek* ever violated section 236.1(c). Instead, as shown *supra*, the  
28 facts alleged by each of the 14 Plaintiffs concede that other individuals, unaffiliated

1 with MindGeek, were responsible for inducing, coercing, causing, or persuading  
2 Plaintiffs to create the images and videos at issue. As in *Fleites*, none of the 14  
3 Plaintiffs had any contact whatsoever with MindGeek until they, or someone on their  
4 behalf, allegedly sought to have the third-party-created content removed. *See Fleites*  
5 MTD, at 16–17; K.A. Compl. ¶¶ 312, 315; L.T. Compl. ¶¶ 311-313, 316; N.L. Compl.  
6 ¶¶ 312, 316; N.Y. Compl. ¶¶ 313, 316; T.C. Compl. ¶¶ 312, 315; X.N. Compl.  
7 ¶¶ 312, 315; J.C. Compl. ¶¶ 311, 315; C.S. Compl. ¶ 312; S.O. Compl. ¶¶ 312, 315;  
8 W.L. Compl. ¶¶ 311, 313, 315; L.S. Compl. ¶¶ 313, 316; A.K. Compl. ¶¶ 314-316;  
9 W.P. Compl. ¶¶ 311, 316; J.L. Compl. ¶¶ 315-316. Their state trafficking claims  
10 therefore fail on this additional ground.

11 As with her federal claims, plaintiff J.L.’s California sex-trafficking claim is  
12 barred by the applicable 10-year limitations period because more than 10 years has  
13 passed between when she turned 18 years old and the date on which she filed her  
14 complaint. *See* Cal. Code Civ. P. 52.5(c) (“An action brought pursuant to this section  
15 shall be commenced . . . within 10 years after the date the plaintiff attains the age of  
16 majority); *Castillo*, 358 F. Supp. 3d at 941. Count XV of plaintiff J.L.’s complaint  
17 therefore must also be dismissed as time-barred.

18 **B. Plaintiffs’ Counts V and VI Fail to State a Claim for Receipt,**  
19 **Transport, or Distribution of Child Pornography (18 U.S.C.**  
**§§ 2252, 2252A, 2255)**

20 Plaintiffs’ claims under 18 U.S.C. § 2252A suffer from the same substantive  
21 deficiencies established in *Fleites*, so they too must be dismissed. As explained in  
22 the *Fleites* MTD, liability under section 2252A requires proof that a defendant  
23 “knowingly” received or distributed child pornography, including that the defendant  
24 had actual knowledge of the “age of the performers.” 18 U.S.C. § 2252A; *Fleites*  
25 MTD, at 17–19; *see also United States v. X-Citement Video, Inc.*, 513 U.S. 64, 78 (1994).  
26 While willful blindness can in certain instances be sufficient to establish actual knowledge,  
27 courts have consistently held that this requires deliberate action on the part of the  
28

defendant; recklessness or negligence, including a “general awareness” of illegal activity on a website, is not enough. *See Glob.-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 769–70 (2011); *cf. Y.Y.G.M. SA v. Redbubble, Inc.*, 75 F.4th 995, 1002 (9th Cir. 2023).

As a consequence, Plaintiffs here must allege facts establishing MindGeek’s actual knowledge or willful blindness as to *Plaintiffs’* ages in the relevant videos. They have not done so. Just as in *Fleites*, Plaintiffs have offered only unsupported conclusions that “MindGeek personnel . . . were aware that the video [of Plaintiff] constituted CSAM,” including, apparently, because of the “title, categories, tags, and comments.” L.S. Compl. ¶ 314; *see also* W.P. Compl. ¶ 313; J.L. Compl. ¶ 318; A.K. Compl. ¶ 312; W.L. Compl. ¶ 312; S.O. Compl. ¶ 313; C.S. Compl. ¶ 314; J.C. Compl. ¶ 313; X.N. Compl. ¶ 313; T.C. Compl. ¶ 314; N.Y. Compl. ¶ 314; N.L. Compl. ¶ 313; L.T. Compl. ¶ 314; K.A. Compl. ¶ 313 (all making the same allegation).<sup>8</sup> None of these Plaintiffs, like *Fleites* before them, has offered any facts to show that MindGeek took any “deliberate action” to evade knowledge of Plaintiffs’ ages in their respective videos. Each of their claims therefore must be dismissed on the same grounds established in *Fleites*.

**C. Plaintiffs’ Remaining Claims Do Not Meet the Applicable Pleading Requirements.<sup>9</sup>**

**1. Because MindGeek Is Not the Publisher of the Videos, Plaintiffs’ Intentional-Tort Claims Fail.**

Plaintiffs’ claims for public disclosure of private facts, intrusion into private affairs, false light, common-law and statutory misappropriation of likeness, and Cal.

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<sup>8</sup> Importantly, plaintiff J.L. admits that the men who took the videos of her “falsified the date on her signed contract with a date after her eighteenth birthday,” and had “instructed her to say she was 18-years old” in a video interview. J.L. Compl. ¶¶ 312-313.

<sup>9</sup> Twelve of the fourteen Plaintiffs are not residents of California. K.A. Compl. ¶ 10 (Missouri resident); L.T. Compl. ¶ 10 (New Hampshire resident); N.L. Compl. ¶ 10 (Colorado resident); N.Y. Compl. ¶ 10 (United Kingdom resident); T.C. Compl. ¶ 10 (Rhode Island resident); X.N. Compl. ¶ 10 (Colombia resident); J.C. Compl. ¶ 10 (New York resident); C.S. Compl. ¶ 10 (Thailand resident); S.O. Compl. ¶ 10 (footnote continued)

1 Civ. Code § 1708.85 fail, just as the substantively identical claims alleged in *Fleites*  
2 do, because (1) MindGeek was not the publisher of the videos depicting the Plaintiffs,  
3 and (2) each of the Plaintiffs asserts that a then-boyfriend or unidentified third party  
4 published the videos in the first instance, *not MindGeek*. *See supra* Section I. For  
5 the same reasons established in the *Fleites* MTD, therefore, Plaintiffs' claims (Counts  
6 VII, VIII, IX, X, XI, XII) should also be dismissed. *Id.* at 19–20.

7 Plaintiffs K.A., L.T., N.L., N.Y., X.N., C.S., S.O., W.L., L.S., A.K., and J.L.'s  
8 claims for public disclosure of private facts, intrusion into private affairs, false light,  
9 common-law and statutory misappropriation of likeness, and Cal. Civ. Code  
10 § 1708.85 also fail because they are barred by the limitations period applicable to  
11 each cause of action.

12 Under California law, the statute of limitations for public disclosure of private  
13 facts, intrusion into private affairs, and distribution of private sexually explicit  
14 materials in violation of Cal. Civ. Code § 1708.85 is two years, accruing from the  
15 date of injury. *See* Cal. Civ. Proc. Code, § 335.1; *Nabeel v. Taylor Swift Prods., Inc.*,  
16 2024 WL 4444483, at \*2 (C.D. Cal. July 31, 2024) (applying two-year statute of  
17 limitations to public disclosure of private facts claim); *Mireskandari v. Associated*  
18 *Newspapers Ltd.*, 2016 WL 4506087, at \*14 (Cal. Ct. App. Aug. 29, 2016) (applying  
19 two-year statute of limitations to intrusion into private affairs claim); *Landwehrle v.*  
20 *Bianchi*, 2022 WL 2797787, at \*3 (N.Y. Super. June 24, 2022) (finding claim brought  
21 under Cal. Civ. Code § 1708.85 subject to two-year statute of limitations pursuant to  
22 Cal. Civ. Proc. Code § 335.1). The statute of limitations for both common-law and  
23 statutory claims of misappropriation of name and likeness is also two years, accruing  
24 from the date of first publication of the content at issue. *See* Cal. Civ. Proc. Code §

25 \_\_\_\_\_  
26 (Thailand resident); L.S. Compl. ¶ 10 (Colombia resident); A.K. Compl. ¶ 10  
27 (Florida resident); W.P. Compl. ¶ 10 (Thailand resident). Although all of the  
28 Plaintiffs bring state claims under California common and statutory law, to the extent  
the Court finds that another state's law should apply to any of the Plaintiffs' asserted  
causes of action, MindGeek reserves its right to argue that the Plaintiffs' complaints  
fail to state claims under analogous non-California laws.

1 335.1; *Yeager v. Bowlin*, 693 F.3d 1076, 1081 (9th Cir. 2012)) (“Both [common-law  
2 and statutory section 3344] claims are subject to a two-year statute of limitations.”).  
3 And the statute of limitations for a false light claim is just one year, accruing from  
4 the date of injury. *See* Cal. Civ. Proc. Code § 340(c); *Nabeel*, 2024 WL 4444483, at  
5 \*2 (citing *Roberts v. McAfee, Inc.*, 660 F.3d 1156, 1166 (9th Cir. 2011)).

6 Viewed in the light most favorable to Plaintiffs K.A., L.T., N.L., N.Y., X.N.,  
7 C.S., S.O., W.L., L.S., A.K., and J.L., their allegations concede that more than two  
8 years have passed between, on the one hand, the later of the time these Plaintiffs  
9 learned that the alleged content had been posted or when each of them turned 18  
10 years old, and, on the other hand, the dates on which these Plaintiffs filed their  
11 complaints in June through August 2024.<sup>10</sup> *See* K.A. Compl. ¶ 315 (demanding in  
12 November 2019 that video of her be taken down; complaint filed on June 7, 2024);  
13 L.T. Compl. ¶ 311 (learning in February 2019 that video of sexual assault had been  
14 posted; complaint filed on June 7, 2024); N.L. Compl. ¶ 312 (learning in May 2020  
15 that video of her had been posted on Pornhub; complaint filed on June 7, 2024); N.Y.  
16 Compl. ¶ 312 (alleging that N.Y. was 15 years old in 2017; therefore, N.Y. turned 18  
17 years old in 2020; complaint filed on June 7, 2024); X.N. Compl. ¶¶ 311–312  
18 (alleging that X.N. was 15 years old in 2018; therefore, X.N. turned 18 years old in  
19 2021; complaint filed on June 7, 2024); C.S. Compl. ¶ 311 (alleging that C.S. was 15  
20 years old in 2017; therefore, C.S. turned 18 years old in 2020; complaint filed on  
21 June 13, 2024); S.O. Compl. ¶ 312 (alleging that S.O. learned in February 2020 that  
22 her video had been posted on Pornhub; complaint filed on June 13, 2024); W.L.  
23 Compl. ¶ 311 (alleging that W.L. learned in April 2020 that her video had been posted  
24 on Pornhub; complaint filed on June 13, 2024); L.S. Compl. ¶ 313 (alleging that L.S.  
25 learned in November 2020 that her video had been posted on Pornhub; complaint

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27 <sup>10</sup> MindGeek assumes for the purposes of this motion only that Cal. Civ. Proc. Code  
28 § 352(a) would apply to toll the applicable statute of limitations until these Plaintiffs  
reached the age of majority. MindGeek, however, reserves its right to assert  
otherwise should the Court deny MindGeek’s motion to dismiss.



1 filed on June 14, 2024); A.K. Compl. ¶ 311 (alleging that A.K. was 16 years old in  
2 2014; therefore, A.K. turned 18 years old at least by end of 2016; complaint filed on  
3 June 20, 2024); J.L. Compl. ¶¶ 309, 315 (alleging that J.L. learned in 2009 that her  
4 videos had been posted by GirlsDoPorn; complaint filed on August 20, 2024).  
5 Counts VII, VIII, IX, X, XI, and XII of these Plaintiffs' complaints must therefore  
6 be dismissed as time-barred.

7 **2. Plaintiffs' Misappropriation-of-Likeness Claims (Cal. Civ.**  
8 **Code § 3344) Fail for Additional Reasons.**

9 As in the *Fleites* SAC, the Plaintiffs' misappropriation-of-likeness claims also  
10 fail because they allege only that Plaintiffs' images in videos were placed adjacent to  
11 ads... allegations *identical* to those made by *Fleites*. *Compare Fleites* SAC ¶ 450  
12 (alleging that Plaintiff's video "appeared alongside advertisements that MindGeek  
13 had placed and on which it earned revenues with every page visit, impression,  
14 engagement, and conversion"), *with* K.A. Compl. ¶ 313 (same), L.T. Compl. ¶ 314  
15 (same), N.L. Compl. ¶ 313 (same), N.Y. Compl. ¶ 314 (same), T.C. Compl. ¶ 314  
16 (same), X.N. Compl. ¶ 313 (same), J.C. Compl. ¶ 313 (same), C.S. Compl. ¶ 314  
17 (same), S.O. Compl. ¶ 313 (same), W.L. Compl. ¶ 312 (same), L.S. Compl. ¶ 314  
18 (same), A.K. Compl. ¶ 312 (same), W.P. Compl. ¶ 313 (same), *and* J.L. Compl. ¶ 321  
19 (same). Significantly, none of the Plaintiffs alleges that they appeared in the ads, or  
20 that they were made to appear to endorse the products advertised, or that MindGeek  
21 capitalized on their unique identity or that the ads were tailored in any way to do so.  
22 *See* K.A. Compl. ¶¶ 311–318; L.T. Compl. ¶¶ 311–320; N.L. Compl. ¶¶ 311–321;  
23 N.Y. Compl. ¶¶ 311–327; T.C. ¶¶ 311–318; X.N. Compl. ¶¶ 311–319; J.C. Compl.  
24 ¶¶ 311–319; C.S. Compl. ¶¶ 311–318; S.O. Compl. ¶¶ 311–319; W.L. Compl.  
25 ¶¶ 311–321; L.S. Compl. ¶¶ 311–320; A.K. Compl. ¶¶ 311–320; W.P. Compl.  
26 ¶¶ 311–317; J.L. Compl. ¶¶ 309–327). For the same reasons established in the  
27 *Fleites* MTD, Plaintiffs' common-law and statutory misappropriation claims (Counts  
28 X, XI) must also be dismissed. *Id.* at 20–21.



1                   **3. Plaintiffs’ Count XIII Fails to State a Claim for Negligence.**

2           Plaintiffs’ negligence claims fail on the same grounds set out in the *Fleites*  
3 MTD. *Id.* at 21. Plaintiffs, like *Fleites*, fail to allege that MindGeek owes the  
4 Plaintiffs’ any legal duty. Indeed, Plaintiffs’ seminal allegations of negligence are  
5 *identical* to those alleged in the *Fleites* SAC. *Compare Fleites* SAC ¶ 568–572, with,  
6 *e.g.*, K.A. Compl. ¶ 425–429. Because this fatal flaw persists in the Plaintiffs’  
7 complaints, their negligence claims (Count XIII) must also be dismissed.

8           Plaintiffs K.A., L.T., N.L., N.Y., X.N., C.S., S.O., W.L., L.S., A.K., and J.L.’s  
9 claims for negligence fail for the additional reason that they are barred by the  
10 applicable limitations period. The statute of limitations for a negligence claim in  
11 California is two years, accruing from the date of injury. *See* Cal. Civ. Proc. Code §  
12 335.1; *see also McKenna Motors Torrance v. Vecchio*, 2021 WL 6502339, at \*2 (Cal.  
13 Super. Nov. 15, 2021) (citing Cal. Civ. Proc. Code, § 335.1). Viewed in the light  
14 most favorable to plaintiffs K.A., L.T., N.L., N.Y., X.N., C.S., S.O., W.L., L.S., A.K.,  
15 and J.L., their allegations concede that more than two years have passed between, on  
16 the one hand, the later of the time these Plaintiffs learned that the alleged content had  
17 been posted or when the these Plaintiffs turned 18 years old, and, on the other hand,  
18 the dates on which these Plaintiffs filed their complaints in June through August  
19 2024.<sup>11</sup> *See* K.A. Compl. ¶ 315; L.T. Compl. ¶ 311; N.L. Compl. ¶ 312; N.Y. Compl.  
20 ¶ 312; X.N. Compl. ¶¶ 311–312; C.S. Compl. ¶¶ 311–312; S.O. Compl. ¶ 312; W.L.  
21 Compl. ¶ 311; L.S. Compl. ¶ 313; A.K. Compl. ¶ 311; J.L. Compl. ¶¶ 309–310, 315.  
22 Count XIII of these Plaintiffs’ complaints must therefore be dismissed as time-  
23 barred.

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27 <sup>11</sup> MindGeek assumes for the purposes of this motion only that Cal. Civ. Proc. Code  
28 § 352(a) would apply to toll the applicable statute of limitations until these Plaintiffs  
reached the age of majority. MindGeek, however, reserves its right to assert  
otherwise should the Court deny MindGeek’s motion to dismiss.

1                   **4. Plaintiffs’ Count XIV Fails to State a Claim for Unfair**  
2                   **Competition (Cal. Bus. & Prof. Code §§ 17200 and 17500).**

3           Plaintiffs’ complaints fail to sufficiently plead a claim for unfair competition  
4 because they do not—and cannot—allege that Plaintiffs were fraudulently deceived or  
5 otherwise suffered an economic injury caused by MindGeek’s allegedly unfair  
6 business practices. *See Fleites* MTD, at 22. Here again, Plaintiffs’ allegations of unfair  
7 competition are *identical* to those alleged in the *Fleites* SAC. *Compare Fleites* SAC  
8 ¶¶ 573–583 (alleging that MindGeek “fraudulently deceived its users” into believing  
9 that it was “monetizing, distributing, and advertising legitimate, legal content”; and  
10 *Fleites* “lost money” and suffered “financial harm in the form of costs for therapy,”  
11 “time away from her work,” and “hiring a company to assist her with her efforts  
12 investigate [sic] the continued dissemination of her videos on Pornhub”), *with* K.A.  
13 Compl. ¶¶ 430–440 (same). Because Plaintiffs’ complaints suffer from the same  
14 irreparable deficiency as the *Fleites* SAC, their claims for unfair competition (Count  
15 XIV) must also be dismissed.

16           Plaintiffs K.A., L.T., N.L., N.Y., C.S., S.O., W.L., A.K., and J.L.’s claims for  
17 unfair competition also fail because they are barred by the applicable limitations  
18 period. The statute of limitations for an unfair competition claim under Cal. Bus. &  
19 Prof. Code §§ 17200 and 17500 is four years from the discovery date of the injury.  
20 Cal. Bus. & Prof. Code § 17208; *see also Ra Med. Sys. v. PhotoMedex, Inc.*, 373 F.  
21 App’x 784, 786 (9th Cir. 2010) (citing *Blanks v. Shaw*, 171 Cal. App. 4th 336, 89  
22 Cal. Rptr. 3d 710, 731 (Cal. App. 2009)). Viewed in the light most favorable to  
23 plaintiffs K.A., L.T., N.L., N.Y., C.S., S.O., W.L., A.K., and J.L., their allegations  
24 concede that more than four years have passed between, on the one hand, the later of  
25 the time these Plaintiffs learned that the alleged content had been posted and, on the  
26 other hand, the dates on which these Plaintiffs filed their complaints in June through  
27 August 2024. *See* K.A. Compl. ¶ 315 (demanding in November 2019 that video of  
28 her be taken down); L.T. Compl. ¶ 311 (learning in February 2019 that video of

1 sexual assault had been posted); N.L. Compl. ¶ 312 (learning in May 2020 that video  
2 of her had been posted on Pornhub); N.Y. Compl. ¶ 313 (learning in September 2018  
3 that videos and photographs had been posted on Pornhub); C.S. Compl. ¶¶ 311–312  
4 (learning in 2018 that the photographs and video of her had been posted on Pornhub);  
5 S.O. Compl. ¶ 312 (learning in February 2020 that video of her had been posted on  
6 Pornhub); W.L. Compl. ¶ 311 (learning in April 2020 that video of her had been  
7 posted on Pornhub); A.K. Compl. ¶¶ 311, 313–314 (learning in 2015 that the videos  
8 of her had been posted to MindGeek’s tubesites); J.L. Compl. ¶¶ 309, 315 (learning  
9 in 2009 that videos of her had been posted by GirlsDoPorn). Count XIV of these  
10 Plaintiffs’ complaints must therefore be dismissed as time-barred.

11 **5. Plaintiffs’ Count XVII Cannot State a Claim for Civil**  
12 **Conspiracy.**

13 Plaintiffs’ allegations in their claims for civil conspiracy are *identical* to those  
14 alleged in *Fleites*. Compare *Fleites* SAC ¶¶ 590–594, with K.A. Compl. ¶¶ 452–456,  
15 L.T. Comp. ¶¶ 454–458, N.L. Compl. ¶¶ 455–459, N.Y. Compl. ¶¶ 461–465, T.C.  
16 Compl. ¶¶ 452–456, X.N. Compl. ¶¶ 453–457, J.C. Compl. Ct. XVII, at ¶¶ 134–138,  
17 C.S. Compl. ¶¶ 452–456, S.O. Compl. ¶ 453–457, W.L. Compl. ¶¶ 455–459, L.S.  
18 Compl. ¶¶ 454–458, A.K. Compl. ¶¶ 454–458, W.P. Compl. ¶¶ 451–455, and J.L.  
19 Compl. ¶¶ 461–465. They therefore fail to state claims for civil conspiracy because  
20 the allegations are conclusory, do not specify each Defendant’s purported role in the  
21 alleged conspiracy, and are based upon underlying claims that are just as infirm. See  
22 *Fleites* MTD, at 23. Plaintiffs’ claims for civil conspiracy (Count XVII) therefore  
23 must also be dismissed.

24 Plaintiff J.L.’s claim for civil conspiracy also fails because it is barred by the  
25 applicable limitations period. The statute of limitations for civil conspiracy is  
26 commensurate with the underlying cause of action on which the civil conspiracy  
27 claim is based. See *Liberty City Movie, LLC v. U.S. Bank, N.A.*, 824 F. App’x 505,  
28 508 (9th Cir. 2020) (holding that because plaintiffs’ underlying claims were time-

1 barred the “civil conspiracy claim also must fail”). Here, Plaintiff J.L. alleges civil  
2 conspiracy based on her claims of distribution of private sexually explicit materials  
3 in violation of Cal. Civ. Code § 1708.85, unfair competition, and California  
4 Trafficking Victims Protection Act, Cal. Civ. Code § 52.5. *See, e.g.*, J.L. Compl. ¶  
5 462. As explained above, the statute of limitations for a § 1708.85 claim is two years,  
6 and it is four years for an unfair-competition claim. The statute of limitations for a  
7 claim under Cal. Civ. Code § 52.5 is 10 years, accruing from the date of majority.  
8 *See* Cal. Code Civ. P. 52.5(c); *Castillo*, 358 F. Supp. 3d at 941. The timeliness of  
9 plaintiff J.L.’s civil-conspiracy claim will therefore depend on the timeliness of her  
10 Cal. Civ. Code § 52.5 claim. Viewed in the light most favorable to Plaintiff J.L., her  
11 allegations concede that more than 10 years have passed between when she turned  
12 18 years old, which was in 2008, and the date on which she filed her complaint, which  
13 was August 20, 2024. *See* J.L. Compl. ¶¶ 309–310 (alleging that she was 17 years  
14 old in 2007; therefore, she turned 18 years old in 2008). Count XVII of Plaintiff  
15 J.L.’s complaint must therefore be dismissed as time-barred.

16 **6. Plaintiffs’ Count XVI Fails to State a Claim for Intentional**  
17 **Infliction of Emotional Distress**

18 To state claims for intentional infliction of emotional distress (“IIED”),  
19 Plaintiffs must respectively show: “(1) outrageous conduct by [MindGeek]; (2)  
20 [MindGeek’s] intention of causing or reckless disregard of the probability of causing  
21 emotional distress; (3) the [Plaintiffs’] suffering severe or extreme emotional  
22 distress; and (4) actual and proximate causation of the emotional distress by  
23 [MindGeek’s] outrageous conduct.” *See Garza v. Balatico*, 2021 Cal. Super. LEXIS  
24 110544, at \*10 (Cal. Super. May 26, 2021) (quoting *Huntingdon Life Scis., Inc. v.*  
25 *Stop Huntingdon Animal Cruelty USA, Inc.*, 120 Cal. App. 4th 1228, 1259 (2005)).  
26 “Conduct, to be considered outrageous, must be so extreme as to exceed all bounds  
27 of that usually tolerated in a civilized community.” *Id.* (quoting *Huntingdon*, 120  
28 Cal. App. 4th at 1259) (internal quotation marks omitted). The requirements for

1 stating a viable IIED claim “are rigorous[] and difficult to satisfy.” *Okorie v. L.A.*  
2 *Unified Sch. Dist.*, 14 Cal. App. 5th 574, 597 (2017), *overruled in part on other*  
3 *grounds, Bonni v. St. Joseph Health Sys.*, 11 Cal. 5th 995 (2021) (internal quotation  
4 marks omitted).

5 Plaintiffs have identically pleaded their 5-paragraph IIED counts in all of the  
6 Related Cases, including that: “Defendants acted with reckless disregard of the  
7 likelihood that Plaintiff would suffer emotional distress, including humiliation and  
8 anxiety;” and “Defendants knew, or recklessly disregarded, that Plaintiff was harmed  
9 by the illegal CSAM featuring her on defendants’ websites, but did nothing to help  
10 her, and instead directed and encouraged the proliferation of CSAM on its websites.”  
11 *See, e.g., J.L. Compl.* ¶ 458. As these conclusory allegations concede, Plaintiffs’  
12 IIED claims are premised on conduct inflicted upon each Plaintiff by third parties  
13 who filmed or photographed the Plaintiffs and posted the respective videos and  
14 photographs on MindGeek’s websites. The Plaintiffs therefore have not alleged any  
15 facts establishing that *MindGeek* engaged in any outrageous conduct with an  
16 intention of causing, or with the reckless disregard for causing, Plaintiffs’ emotional  
17 distress. *See Garza*, 2021 Cal. Super. LEXIS 110544, at \*10 (dismissing IIED claim  
18 against defendant employer where plaintiff’s claim was based on employee’s filming  
19 of the plaintiff in the women’s locker room and posting that video on his social media,  
20 and not on any actions by defendants). Even taken as true, then, Plaintiffs’  
21 allegations “describe, at best, passive conduct on the part” of MindGeek by hosting  
22 content posted by third parties and allegedly failing to do more to take the content  
23 down—which is not enough to meet the rigorous IIED standard. *See Caraccioli v.*  
24 *Facebook, Inc.*, 167 F. Supp. 3d 1056, 1063 (N.D. Cal. 2016), *aff’d*, 700 F. App’x  
25 588 (9th Cir. 2017) (dismissing IIED claim where plaintiff requested that Facebook  
26 delete a third-party account distributing sexually explicit videos without the  
27 plaintiff’s consent and Facebook only did so after being threatened with legal action,  
28

1 and concluding that plaintiff failed to show that Facebook acted intentionally in  
2 declining initially to remove the content); *Reaud v. Facebook, Inc.*, 2024 WL  
3 4126066, at \*3 (N.D. Cal. Sept. 9, 2024) (dismissing IIED claim based on “passive  
4 conduct of Facebook by posting [pornographic] third-party advertisements,” and not  
5 on conduct directed to plaintiff). The Plaintiffs’ IIED claims (Count XVI) therefore  
6 must be dismissed.

7 Plaintiffs K.A., L.T., N.L., N.Y., X.N., C.S., S.O., W.L., L.S., A.K., and J.L.’s  
8 IIED claims also fail because they are barred by the applicable limitations period.  
9 The statute of limitations for an IIED claim is two years, accruing from the date the  
10 plaintiff suffered the alleged emotional distress. *See* Cal. Civ. Proc. Code § 335.1;  
11 *Wassmann v. S. Orange Cnty. Cmty. Coll. Dist.*, 24 Cal. App. 5th 825, 851 (June 12,  
12 2018) (barring claim for intentional infliction of emotional distress because  
13 complaint filed more than two years after the plaintiff suffered the alleged emotional  
14 distress). Viewed in the light most favorable to Plaintiffs K.A., L.T., N.L., N.Y.,  
15 X.N., C.S., S.O., W.L., L.S., A.K., and J.L., their allegations concede that more than  
16 two years have passed between, on the one hand, the later of the time these Plaintiffs  
17 allege that they discovered the relevant content had been posted or when they turned  
18 18 years old (*i.e.*, when the alleged emotional distress began) and, on the other hand,  
19 the dates on which these Plaintiffs filed their complaints in June through August  
20 2024.<sup>12</sup> *See* K.A. Compl. ¶ 315; L.T. Compl. ¶ 311; N.L. Compl. ¶ 312; N.Y. Compl.  
21 ¶ 313; X.N. Compl. ¶¶ 311–312; C.S. Compl. ¶¶ 311–312; S.O. Compl. ¶ 312; W.L.  
22 Compl. ¶ 311; L.S. Compl. ¶ 313; A.K. Compl. ¶¶ 311, 313–314; J.L. Compl. ¶¶ 309,  
23 315. Count XIV of these Plaintiffs’ complaints must therefore be dismissed as time-  
24 barred.

25  
26  
27 <sup>12</sup> MindGeek assumes for the purposes of this motion only that Cal. Civ. Proc. Code  
28 § 352(a) would apply to toll the applicable statute of limitations until these plaintiffs  
reached the age of majority. MindGeek, however, reserves its right to assert  
otherwise should the Court deny MindGeek’s motion to dismiss.

1 **III. THE COURT LACKS PERSONAL JURISDICTION OVER**  
2 **MINDGEEK S.À R.L., MINDGEEK USA INCORPORATED, MG**  
3 **GLOBAL ENTERTAINMENT, AND ALL DEFENDANTS AS TO THE**  
4 **NON-U.S. PLAINTIFFS' CLAIMS.**

5 Plaintiffs' Complaints suffer from another irreparable defect, just as the SAC  
6 in *Fleites* does: they do not adequately allege facts supporting this Court's personal  
7 jurisdiction. But unlike in *Fleites*, this Court lacks personal jurisdiction not just over  
8 MindGeek S.à r.l., but over other defendants as well.

9 First, Plaintiffs cannot establish personal jurisdiction over MindGeek S.à r.l.  
10 As demonstrated in *Fleites*, MindGeek S.à r.l. has no contacts with the United States.  
11 And the *Fleites* SAC, though not lacking in detail, still fails to establish personal  
12 jurisdiction over MindGeek S.à r.l. based on an alter ego theory. Plaintiffs'  
13 allegations here are far less specific or supported, recycling the same conclusory  
14 allegations that this Court has rejected in the past and resorting to formulaic  
15 recitations of the factors supporting an alter ego determination. Plaintiffs thus fail  
16 not only to establish personal jurisdiction over MindGeek S.à r.l., but also to  
17 demonstrate that MindGeek S.à r.l. falls within the extraterritorial reach of 18 U.S.C.  
18 § 2255.

19 Second, Plaintiffs' Complaints suffer from a new, independent jurisdictional  
20 defect: because Plaintiffs' claims under 18 U.S.C. §§ 1591 and 2255A fail, they  
21 cannot establish general personal jurisdiction over MindGeek USA Incorporated or  
22 MG Global Entertainment, both of which are headquartered in Texas, not California.  
23 Moreover, Plaintiffs' unsubstantiated (and incorrect) allegations of these entities'  
24 California contacts do not give rise to any specific personal jurisdiction either.

25 Third, six of the Plaintiffs—N.Y., X.N., C.S., S.O., L.S., and W.P.—are not  
26 U.S. residents and thus cannot demonstrate personal jurisdiction over *any* entity in  
27 the United States or California. None of these Plaintiffs alleges any injury in the  
28



1 forum, and none alleges any U.S.- or California-based activities that give rise to or  
2 relate to their claims.

3 **A. Plaintiffs Must Come Forward with Evidence Sufficient to**  
4 **Establish Their Disputed Jurisdictional Allegations.**

5 Plaintiffs bear the burden of demonstrating that the court has jurisdiction.  
6 *AMA Multimedia, LLC v. Wanat*, 970 F.3d 1201, 1207 (9th Cir. 2020). They cannot  
7 do so with only “‘bare bones’ assertions of minimum contacts with the forum or legal  
8 conclusions unsupported by specific factual allegations.” *Swartz v. KPMG LLP*, 476  
9 F.3d 756, 766 (9th Cir. 2007). And most importantly, where defendants proffer  
10 evidence contradicting the pleadings, as MindGeek does here, the typical  
11 presumption flips: “[D]isputed allegations in the complaint that are not *supported*  
12 *with evidence or affidavits* cannot establish jurisdiction.” *AMA Multimedia*, 970 F.3d  
13 at 1207 (emphasis added).

14 Yet, as with the *Fleites* SAC, that is all Plaintiffs have offered here:  
15 conclusory—and unsupportable—allegations. None meets Plaintiffs’ burden.

16 **B. Plaintiffs’ Jurisdictional Allegations as to MindGeek S.à r.l. Do Not**  
17 **Meet Their Burden.**

18 **1. MindGeek S.à r.l. Has No Contacts with the United States.**

19 Plaintiffs’ allegations of MindGeek S.à r.l.’s contacts with California or the  
20 United States are just as sparse and conclusory as those in *Fleites*. None changes the  
21 fact that, as MindGeek has documented time and again, MindGeek S.à r.l. is merely  
22 a Luxembourg-based holding company and thus has no contact with the United  
23 States. Declaration of Andreas Alkiviades Andreou (“Andreou Decl.”) ¶¶ 26, 28.

24 Plaintiffs continue to allege, even in the face of specific denials, that  
25 MindGeek S.à r.l. has “satellite offices in . . . Los Angeles, San Diego, and San  
26 Francisco.” K.A. Compl. ¶ 11; L.T. Compl. ¶ 11; N.L. Compl. ¶ 11; N.Y. Compl.  
27 ¶ 11; T.C. Compl. ¶ 11; X.N. Compl. ¶ 11; J.C. Compl. ¶ 11; C.S. Compl. ¶ 11; S.O.  
28 Compl. ¶ 11; W.L. Compl. ¶ 11; L.S. Compl. ¶ 11; A.K. Compl. ¶ 11; W.P. Compl.



¶ 11; J.L. Compl. ¶ 11. Plaintiffs also again allege that MindGeek S.à r.l. entered into a deferred prosecution agreement with the U.S. Attorney for the Eastern District of New York for unlawful monetary transactions unconnected to the Plaintiffs. K.A. Compl. ¶ 66; L.T. Compl. ¶ 66; N.L. Compl. ¶ 66; N.Y. Compl. ¶ 66; T.C. Compl. ¶ 66; X.N. Compl. ¶ 66; J.C. Compl. ¶ 66; C.S. Compl. ¶ 66; S.O. Compl. ¶ 66; W.L. Compl. ¶ 66; L.S. Compl. ¶ 66; A.K. Compl. ¶ 66; W.P. Compl. ¶ 66; J.L. Compl. ¶ 64. Yet, even taking these allegations as true—but see *AMA Multimedia*, 970 F.3d at 1207 (plaintiff must support “disputed allegations in the complaint . . . with evidence or affidavits”)—Plaintiffs still nowhere allege how those United States-based contacts somehow relate to their claims. See *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 506 (9th Cir. 2023) (affirming dismissal of defendant with forum-based contacts because the contacts were not related to the dispute).

Plaintiffs’ only remaining specific allegation of MindGeek S.à r.l.’s role is the same one that this Court has already said is insufficient to establish personal jurisdiction: that MindGeek S.à r.l. “directly and indirectly owns and operates over 100 pornographic websites . . . including Pornhub.” K.A. Compl. ¶ 11; L.T. Compl. ¶ 11; N.L. Compl. ¶ 11; N.Y. Compl. ¶ 11; T.C. Compl. ¶ 11; X.N. Compl. ¶ 11; J.C. Compl. ¶ 11; C.S. Compl. ¶ 11; S.O. Compl. ¶ 11; W.L. Compl. ¶ 11; L.S. Compl. ¶ 11; A.K. Compl. ¶ 11; W.P. Compl. ¶ 11; J.L. Compl. ¶ 11. This Court warned the plaintiff in *Fleites* that she had to “firmly commit” to whether MindGeek S.à r.l. directly or indirectly owned these pornographic websites, since that fact “is crucially important to the Court’s jurisdictional analysis.” *Fleites v. MindGeek S.A.R.L.*, 2022 WL 4455558, at \*2 (C.D. Cal. July 29, 2022). But Plaintiffs, represented by the same counsel as the plaintiff in *Fleites*, still cannot do so. The fact is that MindGeek S.à r.l. does not “directly . . . own[] and operate[]” any of the pornographic websites at issue in these cases. Andreou Decl. ¶ 28. And the mere fact that MindGeek S.à r.l. is the indirect parent corporation of the entity that operates these websites cannot alone

bring MindGeek S.à r.l. within this Court’s jurisdiction. *See, e.g., Ranza v. Nike, Inc.*, 793 F.3d 1059, 1070 (9th Cir. 2015) (“The existence of a parent-subsidiary relationship is insufficient, on its own, to justify imputing one entity’s contacts with a forum state to another for the purpose of establishing personal jurisdiction.”); *see also Morton v. Aylo Holdings, S.A.R.L.*, 2024 WL 4599343, at \*4 (C.D. Cal. Oct. 3, 2024) (dismissing Aylo Holdings S.à r.l. (f/k/a MindGeek S.à r.l.) for lack of personal jurisdiction); *Doe v. Aylo Glob. Ent. Inc.*, 2024 WL 4599539, at \*10 (C.D. Cal. June 24, 2024) (same).

Plaintiffs’ other allegations suffer from the same group-pleading defect that has plagued every iteration of the *Fleites* complaint. As this Court has made clear, Plaintiffs cannot impute the actions of one defendant to another to establish personal jurisdiction. *Fleites*, 2022 WL 4455558, at \*2 n.3; *see also Allen v. Shutterfly, Inc.*, 2020 WL 5517170, at \*4 (N.D. Cal. Sept. 14, 2020). Plaintiffs instead must establish the Court’s personal jurisdiction over each defendant individually. *See Calder v. Jones*, 465 U.S. 783, 790 (1984). Plaintiffs’ “shotgun” pleading, which simply lumps all Defendants together and claims that they collectively took actions in or aimed at California and the United States, does not meet Plaintiffs’ burden of demonstrating personal jurisdiction over *MindGeek S.à r.l.* *Broidy Cap. Mgmt., LLC v. Qatar*, 2018 WL 9943551, at \*5, 7 (C.D. Cal. Aug. 22, 2018).

## **2. Plaintiffs Cannot Impute Other Entities’ Contacts to Establish Jurisdiction over MindGeek S.à r.l.**

As in *Fleites*, Plaintiffs attempt to circumvent their inability to identify any specific contacts between MindGeek S.à r.l. and the United States (because there are none) by trying to impute to MindGeek the jurisdictional contacts of other entities. S.à r.l. Yet, as in *Fleites*, Plaintiffs have not alleged any facts supporting their claim that all the MindGeek entities are “alter egos of one another.” *See* K.A. Compl. ¶¶ 20, 33–35; L.T. Compl. ¶¶ 20, 33–35; N.L. Compl. ¶¶ 20, 33–35; N.Y. Compl. ¶¶ 20, 33–35; T.C. Compl. ¶¶ 20, 33–35; X.N. Compl. ¶¶ 20, 33–35; J.C. Compl. ¶¶ 20, 33–

1 35; C.S. Compl. ¶¶ 20, 33–35; S.O. Compl. ¶¶ 20, 33–35; W.L. Compl. ¶¶ 20, 33–  
2 35; L.S. Compl. ¶¶ 20, 33–35; A.K. Compl. ¶¶ 20, 33–35; W.P. Compl. ¶¶ 20, 33–  
3 35; J.L. Compl. ¶¶ 20, 31–33. But even accepting Plaintiffs’ conclusory allegations  
4 as well-pled, they do not support finding an alter ego relationship between MindGeek  
5 S.à r.l. and any other entity.

6 As Plaintiffs’ counsel and this Court well know, a parent-subsiary  
7 relationship, standing alone, is not enough to impute one entity’s jurisdictional  
8 contacts to another. *See Doe v. Unocal Corp.*, 248 F.3d 915, 925 (9th Cir. 2001). To  
9 pierce the corporate veil, a plaintiff must show much more than ordinary control of  
10 the subsidiary by the parent. This “drastic remedy” should be applied only  
11 “reluctantly and cautiously.” *Vacless Sys. v. Vac-Alert Ip Holdings, LLC*, 2011 WL  
12 13217924, at \*4 (C.D. Cal. June 24, 2011) (citation omitted). “[D]isregard of  
13 corporate separateness requires that the controlling corporate entity exercise *total*  
14 *domination* of the subservient corporation, to the extent that the *subservient*  
15 *corporation manifests no separate corporate interests* of its own.” *Chan v. Soc’y*  
16 *Expeditions, Inc.*, 123 F.3d 1287, 1294 (9th Cir. 1997) (internal quotation marks  
17 omitted) (emphasis added). The test instead “envisions *pervasive control* over the  
18 subsidiary, such as when a parent corporation dictates *every facet* of the subsidiary’s  
19 business—from broad policy decisions to routine matters of day-to-day operation.”  
20 *Ranza*, 793 F.3d at 1073 (internal quotation marks omitted) (emphasis added).

21 As in *Fleites*, Plaintiffs’ allegations here fail for two independent reasons: their  
22 conclusory allegations cannot show anything beyond an ordinary parent-subsiary  
23 relationship; and they do not allege, as they must, that failure to disregard the entities’  
24 separate identities would result in fraud or injustice.

i. **Plaintiffs Cannot Establish Any Facts to Overcome the Presumption of Separateness.**

The plaintiff in *Fleites*, even after the benefit of nearly two years of jurisdictional discovery, has been unable to marshal any specific facts demonstrating the multiple factors necessary to show pervasive control of any other defendant by MindGeek S.à r.l. See *Johnston v. Irontown Hous. Co., Inc.*, 2014 WL 12531189, at \*7 (S.D. Cal. Dec. 9, 2014) (presence of lone factor insufficient); *Corcoran v. CVS Health Corp.*, 169 F. Supp. 3d 970, 983–84 (N.D. Cal. 2016) (presence of even three factors insufficient).

Plaintiffs here, represented by the same counsel, fare no better. Indeed, Plaintiffs’ allegations here are far more conclusory than those in *Fleites*, where the plaintiff alleged specific facts attempting—without success—to establish personal jurisdiction over MindGeek S.à r.l. But that of course does not help Plaintiffs. Plaintiffs’ conclusory allegations of control or a single enterprise do not meet their burden.<sup>13</sup> See, e.g., *Jeong v. Nexo Fin. LLC*, 2022 WL 174236, at \*10 (N.D. Cal. Jan. 19, 2022) (rejecting “conclusory allegations” “that Defendants ‘collectively operat[e] and maintain[.]’” a website in the face of specific denials); *O.T. v. Babybjörn Ab*, 2021 WL 4861447, at \*5 (C.D. Cal. Sep. 8, 2021) (rejecting “conclusory allegations” that “defendant[s] ‘expressly or impliedly agreed to work with and assist each other’ with all aspects of creating and selling” a product).

Rather than offer any specific allegations of fact, Plaintiffs resort to formulaic recitations of various factors that might support an alter ego finding. See K.A. Compl. ¶¶ 22, 300; L.T. Compl. ¶¶ 22, 300; N.L. Compl. ¶¶ 22, 300; N.Y. Compl. ¶¶ 22, 300; T.C. Compl. ¶¶ 22, 300; X.N. Compl. ¶¶ 22, 300; J.C. Compl. ¶¶ 22, 300;

<sup>13</sup> See K.A. Compl. ¶¶ 11, 20 (alleging that “MindGeek S.a.r.l, and all other MindGeek entities operate as a single business enterprise”); L.T. Compl. ¶¶ 11, 20; N.L. Compl. ¶¶ 11, 20; N.Y. Compl. ¶¶ 11, 20; T.C. Compl. ¶¶ 11, 20; X.N. Compl. ¶¶ 11, 20; J.C. Compl. ¶¶ 11, 20; C.S. Compl. ¶¶ 11, 20; S.O. Compl. ¶¶ 11, 20; W.L. Compl. ¶¶ 11, 20; L.S. Compl. ¶¶ 11, 20; A.K. Compl. ¶¶ 11, 20; W.P. Compl. ¶¶ 11, 20; J.L. Compl. ¶¶ 11, 20.

1 C.S. Compl. ¶¶ 22, 300; S.O. Compl. ¶¶ 22, 300; W.L. Compl. ¶¶ 22, 300; L.S.  
2 Compl. ¶¶ 22, 300; A.K. Compl. ¶¶ 22, 300; W.P. Compl. ¶¶ 22, 300; J.L. Compl.  
3 ¶¶ 22, 298. Yet those formulaic recitations do not meet their burden of demonstrating  
4 personal jurisdiction, as courts in this Circuit have repeatedly concluded. *See, e.g.,*  
5 *Lugo v. Performance Transp., LLC*, 2020 WL 7034336, at \*5 (C.D. Cal. Oct. 5, 2020)  
6 (dismissing as conclusory allegations that merely recited the various alter ego  
7 factors); *Sandoval v. Ali*, 34 F. Supp. 3d 1031, 1040 (N.D. Cal. 2014) (same);  
8 *Kingsburg Apple Packers, Inc. v. Ballantine Produce Co.*, 2010 WL 2817056, at \*4–  
9 5 (E.D. Cal. July 16, 2010) (same).

10 Further, even if those allegations were not too conclusory to meet Plaintiffs’  
11 burden (they are), they *still* do not support personal jurisdiction over MindGeek  
12 S.à r.l. here. Each is either irrelevant to the Court’s alter ego analysis or directly  
13 contradicted by MindGeek’s evidence (and thus not to be credited, *see Yamashita*,  
14 62 F.4th at 502; *AMA Multimedia*, 970 F.3d at 1207). Specifically:

- 15 • Plaintiffs allege that the corporate structure, including the Luxembourg-  
16 based holding company, “lacked economic substance” and is “a sham  
17 created to evade pornography, tax, and monetary transaction laws.” K.A.  
18 Compl. ¶¶ 300–301; L.T. Compl. ¶¶ 300–301; N.L. Compl. ¶¶ 300–01;  
19 N.Y. Compl. ¶¶ 300–301; T.C. Compl. ¶ 300–301; X.N. Compl. ¶¶ 300–  
20 301; J.C. Compl. ¶¶ 300–301; C.S. Compl. ¶¶ 300–301; S.O. Compl.  
21 ¶¶ 300–301; W.L. Compl. ¶¶ 300–301; L.S. Compl. ¶¶ 300–301; A.K.  
22 Compl. ¶¶ 300–301; W.P. Compl. ¶¶ 300–301; J.L. Compl. ¶ 298–299.  
23 But each of the entities was “created for a legitimate business and economic  
24 purpose,” such as acquiring another business or to operate within the  
25 multiple jurisdictions in which MindGeek does business. Andreou Decl.  
26 ¶¶ 5–9.

- 1 • Plaintiffs allege that the MindGeek defendants ran “all the organizations  
2 . . . as one, . . . comingled monies, failed to segregate funds, paid each  
3 others’ fees, expenses and distributions, . . . [and] failed to keep *bona fide*,  
4 accurate, and complete corporate and financial records.” K.A. Compl.  
5 ¶ 300; L.T. Compl. ¶ 300; N.L. Compl. ¶ 300; N.Y. Compl. ¶ 300; T.C.  
6 Compl. ¶ 300; X.N. Compl. ¶ 300; J.C. Compl. ¶ 300; C.S. Compl. ¶ 300;  
7 S.O. Compl. ¶ 300; W.L. Compl. ¶ 300; L.S. Compl. ¶ 300; A.K. Compl.  
8 ¶ 300; W.P. Compl. ¶ 300; J.L. Compl. ¶ 298. Yet the undisputed evidence  
9 establishes that each entity has its own bank accounts, files separate tax  
10 returns, properly recorded all transactions within the MindGeek entities,  
11 and had its own board of directors or the foreign equivalent, which observed  
12 corporate formalities. Andreou Decl. ¶¶ 17–18, 29–30, 34–35, 38, 42–43,  
13 46–47, 50–51.
- 14 • Plaintiffs allege that MindGeek “used the same business locations  
15 employing the same employees.” K.A. Compl. ¶ 300; L.T. Compl. ¶ 300;  
16 N.L. Compl. ¶ 300; N.Y. Compl. ¶ 300; T.C. Compl. ¶ 300; X.N. Compl.  
17 ¶ 300; J.C. Compl. ¶ 300; C.S. Compl. ¶ 300; S.O. Compl. ¶ 300; W.L.  
18 Compl. ¶ 300; L.S. Compl. ¶ 300; A.K. Compl. ¶ 300; W.P. Compl. ¶ 300;  
19 J.L. Compl. ¶ 298. But that does not “undermine the entities’ formal  
20 separation.” *Ranza*, 793 F.3d at 1074 (“Some employees and management  
21 personnel move between the entities, but that does not undermine the  
22 entities’ formal separation.”); *Tamraz v. Bakotic Pathology Assocs.*, 2022  
23 WL 16985001, at \*4 (S.D. Cal. Nov. 16, 2022) (shared office space not  
24 sufficient).
- 25 • Plaintiffs allege that the MindGeek defendants are not adequately  
26 capitalized. K.A. Compl. ¶ 300; L.T. Compl. ¶ 300; N.L. Compl. ¶ 300;  
27 N.Y. Compl. ¶ 300; T.C. Compl. ¶ 300; X.N. Compl. ¶ 300; J.C. Compl.  
28

¶ 300; C.S. Compl. ¶ 300; S.O. Compl. ¶ 300; W.L. Compl. ¶ 300; L.S. Compl. ¶ 300; A.K. Compl. ¶ 300; W.P. Compl. ¶ 300; J.L. Compl. ¶ 298. But each is adequately capitalized, [REDACTED]. Andreou Decl. ¶¶ 29, 34, 38, 42, 47, 50.

- Plaintiffs claim that the MindGeek defendants “failed to maintain arm’s length relationships among themselves.” K.A. Compl. ¶ 300; L.T. Compl. ¶ 300; N.L. Compl. ¶ 300; N.Y. Compl. ¶ 300; T.C. Compl. ¶ 300; X.N. Compl. ¶ 300; J.C. Compl. ¶ 300; C.S. Compl. ¶ 300; S.O. Compl. ¶ 300; W.L. Compl. ¶ 300; L.S. Compl. ¶ 300; A.K. Compl. ¶ 300; W.P. Compl. ¶ 300; J.L. Compl. ¶ 298. Yet as MindGeek documented in its motion to dismiss in *Fleites*, when the entities provide services to one another, they do so under written service agreements which are priced based on a cost-plus model, with the mark-up determined by annual transfer-pricing studies conducted by MindGeek’s auditors. Andreou Decl. ¶¶ 14–15. Providing those services across the enterprise under formal agreements is not evidence of an alter ego relationship. *See Youngevity Int’l, Inc. v. Innov8tive Nutrition, Inc.*, 2024 WL 838707, at \*2 (9th Cir. Feb. 28, 2024) (finding no alter ego relationship where the entities had “a services agreement whereby [one] provides management, consulting, accounting, and administrative services” to the other).
- Plaintiffs claim that the MindGeek defendants “held themselves out as being personally liable for the debts of each other.” K.A. Compl. ¶ 300; L.T. Compl. ¶ 300; N.L. Compl. ¶ 300; N.Y. Compl. ¶ 300; T.C. Compl. ¶ 300; X.N. Compl. ¶ 300; J.C. Compl. ¶ 300; C.S. Compl. ¶ 300; S.O. Compl. ¶ 300; W.L. Compl. ¶ 300; L.S. Compl. ¶ 300; A.K. Compl. ¶ 300; W.P. Compl. ¶ 300; J.L. Compl. ¶ 298. But, as MindGeek has explained,



1 it is routine for entities under the same corporate umbrella to guaranty loans  
2 for each other. *See, e.g., Kramer Motors, Inc. v. British Leyland, Ltd.*, 628  
3 F.2d 1175, 1177 (9th Cir. 1980) (no alter ego relationship even where  
4 parent guaranteed the loan of its subsidiary); *Indus. Bank of Korea v. ASI*  
5 *Corp.*, 2018 WL 6164315, at \*10 (C.D. Cal. Apr. 26, 2018) (“corporate  
6 parents may—and routinely do—guaranty debts of their subsidiaries while  
7 still maintaining corporate separateness”).

8 Finally, the very few specific factual allegations Plaintiffs offer have nothing  
9 to do with establishing jurisdiction over MindGeek S.à r.l. Plaintiffs lodge serial  
10 accusations that certain individual officers of one of the MindGeek entities were the  
11 alter egos of MindGeek. *See* K.A. Compl. ¶¶ 302–310; L.T. Compl. ¶¶ 302–310;  
12 N.L. Compl. ¶¶ 302–310; N.Y. Compl. ¶¶ 302–310; T.C. Compl. ¶¶ 302–310; X.N.  
13 Compl. ¶¶ 302–310; J.C. Compl. ¶¶ 302–310; C.S. Compl. ¶¶ 302–310; S.O. Compl.  
14 ¶¶ 302–310; W.L. Compl. ¶¶ 302–310; L.S. Compl. ¶¶ 302–310; A.K. Compl.  
15 ¶¶ 302–310; W.P. Compl. ¶¶ 302–310; J.L. Compl. ¶¶ 298–308. As explained in the  
16 Individual Defendants’ concurrently filed motions to dismiss, however, these  
17 allegations have no merit. And even if they did, they still would not demonstrate this  
18 Court’s personal jurisdiction over MindGeek S.à r.l. The alter ego doctrine allows a  
19 court to pierce the corporate veil in order to “impute” the jurisdictional contacts of  
20 one party to another. *See Ranza*, 793 F.3d at 1070–71. But, as the Individual  
21 Defendants explain, this Court has no personal jurisdiction over those non-U.S.  
22 residents. Plaintiffs’ allegations are thus irrelevant to the alter ego analysis for  
23 MindGeek S.à r.l.

24 In short, Plaintiffs’ allegations all suffer from the same defects that plague  
25 those in *Fleites*—and more. They are conclusory. They are not true. They are not  
26 relevant. And they show nothing more than an ordinary parent-subsidary  
27  
28

1 relationship. Plaintiffs thus have not met their burden of demonstrating personal  
2 jurisdiction over MindGeek S.à r.l.

3 **ii. Plaintiffs Cannot Establish That Failing to Disregard**  
4 **the Separateness Would Result in Fraud or Injustice.**

5 Plaintiffs' alter ego theory fails for a separate and independently dispositive  
6 reason: they cannot show that "'failure to disregard' the separate entities 'would  
7 result in fraud or injustice.'" *Iconlab, Inc. v. Bausch Health Cos.*, 828 F. App'x 363,  
8 364 (9th Cir. 2020) (quoting *Ranza*, 793 F.3d at 1073). The alter ego doctrine  
9 "affords protection where some conduct *amounting to bad faith* makes it inequitable  
10 for the corporate owner to hide behind the corporate form." *Perfect 10, Inc. v.*  
11 *Giganews, Inc.*, 847 F.3d 657, 677 (9th Cir. 2017) (internal quotations and citations  
12 omitted) (emphasis in original). Here, Plaintiffs merely allege that the "sham  
13 corporate structure was established and maintained for illegal purposes and to  
14 insulate the Individual Defendants from liability." K.A. Compl. ¶ 23; L.T. Compl.  
15 ¶ 23; N.L. Compl. ¶ 23; N.Y. Compl. ¶ 23; T.C. Compl. ¶ 23; X.N. Compl. ¶ 23; J.C.  
16 Compl. ¶ 23; C.S. Compl. ¶ 23; S.O. Compl. ¶ 23; W.L. Compl. ¶ 23; L.S. Compl.  
17 ¶ 23; A.K. Compl. ¶ 23; W.P. Compl. ¶ 23; J.L. Compl. ¶ 23. Yet, just as in *Fleites*,  
18 Plaintiffs do not allege what fraud or injustice would result from failing to disregard  
19 the corporate separateness of the MindGeek entities.

20 Nor could they. This is *not* a situation where the only proper defendant is  
21 absent. Plaintiffs have sued the operator of the websites at issue in this lawsuit, MG  
22 Freesites Ltd, and MindGeek does not challenge the Court's jurisdiction over that  
23 entity or over 9219, which acts as a service provider to MG Freesites. And "[t]here  
24 are no facts before the Court that suggest Plaintiff[s] cannot be made whole through  
25 a lawsuit against [Freesites and 9219]." *Shimmick Constr. Co./Obayashi Corp. v.*  
26 *Officine Meccaniche Galletti-O.M.G. S.R.L.*, 2014 WL 5847440, at \*7 (S.D. Cal.  
27 Nov. 12, 2014). Insolvency or inadequate capitalization *could* "satisfy this standard  
28

1 ‘when a corporation is so undercapitalized that it is unable to meet debts that may  
2 reasonably be expected to arise in the normal course of business.’” *Perfect 10, Inc.*,  
3 847 F.3d at 677 (citation omitted). But, for one, “multimillion dollar judgments” are  
4 *not* within a company’s “ordinary course of business.” *In re Hydroxycut Marketing*  
5 *and Sales Practices Litig.*, 810 F. Supp. 2d 1100, 1123 (S.D. Cal. 2011). And, for  
6 another, MG Freesites and 9219 have enough capital to “meet debts that may  
7 reasonably be expected to arise in the normal course of business.” *Perfect 10*, 847  
8 F.3d at 677. [REDACTED], Andreou Decl. ¶¶ 29, 34,  
9 42, and Plaintiffs do not even allege that these entities’ assets are insufficient to  
10 satisfy any potential judgments they may obtain.

11 In sum, because Plaintiffs fail to establish that MindGeek S.à r.l. is the alter  
12 ego of any other Defendant, and because failure to disregard its separateness would  
13 not result in fraud or injustice, personal jurisdiction may not be extended over  
14 MindGeek S.à r.l. under an alter ego theory.

15 **3. MindGeek S.à r.l. Is Also Beyond the Territorial Reach of 18**  
16 **U.S.C. § 1595.**

17 For the same reasons demonstrated in *Fleites*, see *Fleites* MTD at 27–29,  
18 Plaintiff’s section 1595 claim should be dismissed as to MindGeek S.à r.l. because it  
19 is beyond the territorial reach of section 1595. None of Plaintiffs’ allegations cures  
20 the fundamental defects in these claims. First, MindGeek S.à r.l., a private holding  
21 company incorporated under the laws of Luxembourg,<sup>14</sup> is still not a national of the  
22 U.S., an alien lawfully admitted for permanent residence, or “present in” the U.S. 18  
23 U.S.C. § 1596(a); Andreou Decl. ¶ 28. Second, even if section 1591 could apply  
24 extraterritorially, there is no legal basis for asserting a claim arising out of its civil  
25 analogue here.

26  
27 <sup>14</sup> See K.A. Compl. ¶ 11; L.T. Compl. ¶ 11; N.L. Compl. ¶ 11; N.Y. Compl. ¶ 11;  
28 T.C. Compl. ¶ 11; X.N. Compl. ¶ 11; J.C. Compl. ¶ 11; C.S. Compl. ¶ 11; S.O.  
Compl. ¶ 11; W.L. Compl. ¶ 11; L.S. Compl. ¶ 11; A.K. Compl. ¶ 11; W.P. Compl.  
¶ 11; J.L. Compl. ¶ 11.

1           **C. This Court Lacks Personal Jurisdiction over MindGeek USA**  
2           **Incorporated and MG Global Entertainment.**

3           None of the Plaintiffs has met her burden of demonstrating personal  
4 jurisdiction over MindGeek USA Incorporated and MG Global Entertainment in  
5 these actions. Plaintiffs invoke 18 U.S.C. § 2255(c)'s nationwide-service-of-process  
6 provision to establish jurisdiction over these (and other) entities.<sup>15</sup> But, as  
7 demonstrated above, Plaintiffs' federal-law claims fail, and thus they cannot invoke  
8 the nationwide-service-of-process provision applicable to those claims.

9           Without that provision, Plaintiffs cannot establish personal jurisdiction—  
10 general or specific—over MindGeek USA Incorporated and MG Global  
11 Entertainment. Although Plaintiffs allege that these entities have their principal  
12 places of business in California, that was not true at the time any of the Plaintiffs filed  
13 their complaints. Andreou Decl. ¶¶ 36, 44; *see Yamashita*, 62 F.4th at 502  
14 (“Uncontroverted allegations in the complaint are taken as true, but in the face of a  
15 contradictory affidavit, the ‘plaintiff cannot simply rest on the bare allegations of its  
16 complaint.’”). By the time the first of the complaints was filed in June 2024,  
17 MindGeek USA Incorporated and MG Global Entertainment were both companies  
18 organized under the laws of Delaware with their principal places of business in  
19 Texas.<sup>16</sup> Andreou Decl. ¶¶ 36, 44. They are thus not subject to personal jurisdiction  
20 in California based on having a principal place of business here.<sup>17</sup> *See Bauman v.*  
21 *DaimlerChrysler Corp.*, 644 F.3d 909, 913–14 n.7 (9th Cir. 2011) (general personal  
22 jurisdiction “is determined at the time the suit was filed”), *overruled on other*  
23 *grounds*, 571 U.S. 117 (2014); *Baton v. Ledger SAS*, 2021 WL 5226315, at \*4 (N.D.

24  
25 <sup>15</sup> That provision applies to Plaintiffs' claims under 18 U.S.C. §§ 1591 and 2255A.  
18 U.S.C. § 2255(a).

26 <sup>16</sup> Because these entities had their principal places of business in California at the  
time the complaint in *Fleites* was filed, MindGeek did not challenge this Court's  
personal jurisdiction over them in that action.

27 <sup>17</sup> Rule 4(k)(2), which Plaintiffs invoke, does not apply to MindGeek USA  
28 Incorporated and MG Global Entertainment, since they are Delaware corporations  
with principal places of business in Texas. *See* Fed. R. Civ. P. 4(k)(2)(A).

1 Cal. Nov. 8, 2021) (“Courts have uniformly held that *general* jurisdiction is to be  
2 determined no earlier than the time of filing of the complaint.”), *overruled in part on*  
3 *other grounds*, 2022 WL 17352192 (9th Cir. Dec. 1, 2022); *see also Sabre Int’l Sec.*  
4 *v. Torres Advanced Enter. Sols.*, 60 F. Supp. 3d 21, 30 (D.D.C. 2014) (collecting  
5 cases).

6 Nor do Plaintiffs allege any accurate California-based contacts for these  
7 entities. *See AMA Multimedia*, 970 F.3d at 1207 (“[D]isputed allegations in the  
8 complaint that are not *supported with evidence or affidavits* cannot establish  
9 jurisdiction.” (emphasis added)). MindGeek USA Incorporated distributes DVD-  
10 based content and operates e-commerce merchandise stores. Andreou Decl. ¶ 37.  
11 MG Global Entertainment primarily provides services for television-based  
12 businesses. *Id.* ¶ 44. And although two MG Global Entertainment employees have  
13 responsibilities concerning the content on MindGeek sites, neither employee resides  
14 or works in California. *Id.* ¶ 46. There is simply no connection between those  
15 activities and Plaintiffs’ claims. *See Yamashita*, 62 F.4th at 506 (a defendant’s  
16 contacts with the forum must be related to the plaintiff’s alleged injury to support  
17 personal jurisdiction).

18 Plaintiffs thus cannot establish either general or specific personal jurisdiction  
19 over MindGeek USA Incorporated or MG Global Entertainment. *See Ranza*, 793  
20 F.3d at 1069; *AMA Multimedia, LLC*, 970 F.3d at 1208.

21 **D. The Non-U.S. Plaintiffs’ Claims Do Not Arise out of Any United**  
22 **States-Based Conduct.**

23 Unlike in *Fleites*, where a California resident brought suit for alleged injuries  
24 she experienced in California, only one of the fourteen Plaintiffs here is a California  
25 resident. Six of them are not even U.S. residents; they are residents of Thailand,  
26  
27  
28

Colombia, and the United Kingdom.<sup>18</sup> For those non-U.S. Plaintiffs, their Complaints suffer from yet another independent jurisdictional defect: they cannot establish personal jurisdiction over *any* entity in the United States, because they have not suffered any harm in the United States, and their claims are not related to any U.S.-based contacts.

The Non-U.S. Plaintiffs cannot establish general personal jurisdiction over any defendant entity. They do not allege contacts so constant and pervasive as to render any entity “essentially at home” in the forum. *Bristol-Myers Squibb Co. v. Super. Ct. (BMS)*, 582 U.S. 255, 271 (2017). None of the entities is incorporated in California, nor does any have its principal place of business here. *Ranza*, 793 F.3d at 1069 (describing the “paradigmatic locations” where a corporation is at home). And Plaintiffs do not allege facts sufficient to establish that this is one of the “exceptional case[s]” where general jurisdiction will be found “anywhere else.” *Id.*

Nor can the Non-U.S. Plaintiffs establish specific personal jurisdiction over any defendant entity either. Specific personal jurisdiction empowers the Court to adjudicate only disputes that “arise out of or relate to” the defendant’s forum-based contacts. *BMS*, 582 U.S. at 272. To avail themselves of this “case-linked” jurisdiction, the Non-U.S. Plaintiffs must satisfy the Ninth Circuit’s three-part test:

(1) the defendant must either purposefully direct his activities toward the forum or purposefully avail himself of the privileges of conducting activities in the forum; (2) the claim must be one which arises out of or relates to the defendant’s forum-related activities; and (3) the exercise of jurisdiction must comport with fair play and substantial justice, *i.e.* it must be reasonable.

*AMA Multimedia*, 970 F.3d at 1208. Due process requires a *direct* connection between the harm alleged and Defendants’ contacts with the forum state. As the Supreme Court has made clear, the number of jurisdictional facts a plaintiff can rattle

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<sup>18</sup> C.S., S.O., and W.P. allege they are residents of Thailand. C.S. Compl. ¶ 10; S.O. Compl. ¶ 10; W.P. Compl. ¶ 10. X.N. and L.S. allege they are residents of Colombia. X.N. Compl. ¶ 10; L.S. Compl. ¶ 10. N.Y. alleges she is a U.K. resident. N.Y. Compl. ¶ 10.

1 off is not relevant: when there is no direct connection between the harm alleged and  
2 those contacts, “specific jurisdiction is lacking regardless of the extent of a  
3 defendant’s unconnected activities in the State.” *BMS*, 582 U.S. at 272; *see also*  
4 *Yamashita*, 62 F.4th at 506 (even if a company has sufficient contacts with the forum  
5 state, those contacts must be related to the plaintiff’s alleged injury).

6 The Non-U.S. Plaintiffs also cannot show the requisite purposeful direction,  
7 or that their claims arise out of or relate to any Defendant’s U.S.- or California-based  
8 activities.

9 **No purposeful direction.** To show purposeful direction, Plaintiffs must allege  
10 that the MindGeek defendants “(1) committed an intentional act, (2) expressly aimed  
11 at the forum state, (3) causing harm that the defendant knows is likely to be suffered  
12 in the forum state.” *Davis v. Cranfield Aero. Sols., Ltd.*, 71 F.4th 1154, 1162–63 (9th  
13 Cir. 2023) (quoting *Yahoo! Inc. v. La Ligue Contre Le Racisme*, 433 F.3d 1199, 1206  
14 (9th Cir. 2006)). A “necessary element in establishing purposeful direction” is  
15 “[h]arm suffered in the forum state.” *Id.* at 1163 (quoting *Morrill v. Scott Fin. Corp.*,  
16 873 F.3d 1136, 1144 (9th Cir. 2017)).

17 Even invoking 18 U.S.C. § 2255(c)’s nationwide-service-of-process provision  
18 and Rule 4(k)(2), the Non-U.S. Plaintiffs have not alleged that they suffered any harm  
19 *in the United States*. Rather, Plaintiffs are residents of Thailand (C.S. Compl. ¶ 10;  
20 S.O. Compl. ¶ 10; W.P. Compl. ¶ 10), Colombia (X.N. Compl. ¶ 10; L.S. Compl.  
21 ¶ 10), and the U.K. (N.Y. Compl. ¶ 10). They allege no injury in the United States,  
22 and thus cannot establish any Defendant’s purposeful direction at the United States.  
23 *See Davis*, 71 F.4th at 1162–63 (plaintiffs were not injured in Idaho, and thus could  
24 not show purposeful direction by the U.K. defendant in Idaho).

25 **No relation to the claims.** Even if the MindGeek Defendants have contacts  
26 with California or the United States, the Non-U.S. Plaintiffs’ allegations fail for  
27 another independent reason: none of the contacts they allege gives rise to, or has any  
28



1 relation to, their claims. *See* C.S. Compl. ¶¶ 35–39; S.O. Compl. ¶¶ 35–39; W.P.  
2 Compl. ¶¶ 35–39; X.N. Compl. ¶¶ 35–39; L.S. Compl. ¶¶ 35–39; N.Y. Compl.  
3 ¶¶ 35–39.

4 This prong of the jurisdictional analysis has two components. The arise-out-  
5 of component “asks about causation,” while the relate-to component “contemplates  
6 that some relationships will support jurisdiction without a causal showing.” *Ford*  
7 *Motor Co. v. Mont. Eighth Judicial Dist. Court*, 592 U.S. 351, 362 (2021); *accord*  
8 *LNS Enters. LLC v. Cont’l Motors, Inc.*, 22 F.4th 852, 861 (9th Cir. 2022). For a  
9 claim to arise out of the forum contacts, those contacts must be a “but for” cause of  
10 those claims. *Yamashita*, 62 F.4th at 504. That requires that ““a direct nexus exists  
11 between [a defendant’s] contacts [with the forum state] and the cause of action.”” *Id.*  
12 And although a claim can relate to the forum contacts without but-for causation,  
13 “relatedness requires a close connection between contacts and injury.” *Id.* Neither  
14 component is met here.

15 The Non-U.S. Plaintiffs do not allege any connection between the MindGeek  
16 Defendants’ U.S.-based contacts and their claims. The crux of the Non-U.S.  
17 Plaintiffs’ allegations is that MindGeek adopted “an unrestricted content business  
18 model,” and “embraced the [posting of child pornography] and proactively assisted  
19 such users in maximizing the attention their content received” through a “faux  
20 moderation process” and search-engine optimization, which resulted in MindGeek  
21 posting CSAM depicting Plaintiffs. *See* C.S. Compl. ¶¶ 2–5, 57–149, 314, 324; S.O.  
22 Compl. ¶¶ 2–5, 57–149, 313, 325; W.P. Compl. ¶¶ 2–5, 57–149, 313, 323; X.N.  
23 Compl. ¶¶ 2–5, 57–149, 313, 325; L.S. Compl. ¶¶ 2–5, 57–149, 314, 326; N.Y.  
24 Compl. ¶¶ 2–5, 57–149, 314, 333. But significantly, Plaintiffs allege that because  
25 the entire MindGeek corporate structure was a sham, *all these activities occurred in*  
26 *Canada and Cyprus*. *See* C.S. Compl. ¶¶ 301, 324; S.O. Compl. ¶¶ 301, 325; W.P.  
27 Compl. ¶¶ 301, 323; X.N. Compl. ¶¶ 301, 325; L.S. Compl. ¶¶ 301, 326; N.Y.  
28

1 Compl. ¶¶ 301, 333. Indeed, Plaintiffs specifically allege that the CSAM depicting  
2 them was “upload[ed] . . . through a network of agents and MindGeek employees in  
3 *Canada or Cyprus*”—not the United States. C.S. Compl. ¶ 324(b) (emphasis added);  
4 S.O. Compl. ¶ 325(b); W.P. Compl. ¶ 323(b); X.N. Compl. ¶ 325(b); L.S. Compl.  
5 ¶ 326(b); N.Y. Compl. ¶ 333(b). Plaintiffs thus actually specify that MindGeek’s  
6 *non-U.S.* contacts are the but-for cause of their claims.

7 And in fact, none of the alleged actions giving rise to Plaintiffs’ complaints  
8 occurred in the United States. Contrary to Plaintiffs’ baseless allegations, MindGeek  
9 S.à r.l., MG Freesites, and MG Premium have no offices or employees in the United  
10 States—which means they did not take any of the alleged actions in the United States.  
11 Andreou Decl. ¶¶ 28, 33, 41. 9219-1568 Quebec had two U.S.-based employees at  
12 one point, but those employees supported MindGeek’s *paysite* businesses—not the  
13 *tubesite* businesses that are at issue here. *Id.* ¶ 49; *see* C.S. Compl. ¶ 314; CS.O.  
14 Compl. ¶ 313; W.P. Compl. ¶ 313; X.N. Compl. ¶ 314; L.S. Compl. ¶ 314; N.Y.  
15 Compl. ¶ 314. And as demonstrated above, Plaintiffs’ allegations of MindGeek  
16 USA’s and MG Global Entertainment’s U.S.-based activities, including that they  
17 provide “services such as moderation, formatting, review, and approval of content,”  
18 are incorrect and cannot be credited. *See* C.S. Compl. ¶¶ 13, 15; S.O. Compl. ¶¶ 13,  
19 15; W.P. Compl. ¶¶ 13, 15; X.N. Compl. ¶¶ 13, 15; L.S. Compl. ¶¶ 13, 15; N.Y.  
20 Compl. ¶¶ 13, 15.

21 Finally, though certain of Plaintiffs’ other allegations may demonstrate some  
22 contacts with the United States, *see, e.g.*, C.S. Compl. ¶¶ 13, 15, 35–39 (“industry  
23 outreach and influencing, lobbying, and media relations,” “doing business” in the  
24 United States, deriving “profits from U.S.-based operations,” and “shar[ing]  
25 advertising revenue with numerous sex traffickers who reside in the United  
26 States”),<sup>19</sup> doing some business in the forum is not sufficient to establish personal

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28 <sup>19</sup> S.O. Compl. ¶¶ 13, 15, 35–39; W.P. Compl. ¶¶ 13, 15, 35–39; X.N. Compl. ¶¶ 13,  
15, 35–39; L.S. Compl. ¶¶ 13, 15, 35–39; N.Y. Compl. ¶¶ 13, 15, 35–39.

jurisdiction if that business is not related to the plaintiff's injury, *see Yamashita*, 62 F.4th at 506 (contacts related to other business activities not relevant to jurisdiction). The Non-U.S. Plaintiffs have drawn no link demonstrating any close connection between these general business activities and their claims or their injuries—all of which also did not occur in the United States. The Court thus lacks personal jurisdiction over those claims. *See, e.g., BMS*, 582 U.S. at 264–65 (no jurisdiction in California for non-California residents who were not injured in California, even though the defendant had “extensive” contacts with California that gave rise to other California plaintiffs’ identical claims); *Hernandez v. LG Elecs. U.S.A., Inc.*, 2023 WL 9375095, at \*2–3 (C.D. Cal. Dec. 26, 2023) (claims by out-of-California plaintiffs bore no connection to California because they did not purchase the product in California or suffer injury here).

### **CONCLUSION**

For all of the foregoing reasons, the Court should dismiss with prejudice Plaintiffs’ Complaints.

Dated: October 30, 2024

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Defendants MindGeek, S.à r.l., MG Freesites Ltd, MG Premium Ltd, MindGeek USA Incorporated, MG Global Entertainment Inc., and 9219-1568 Quebec Inc., certifies that this brief contains 43 pages, which complies with the 50-page limit set in the Court’s Order Granting Joint Stipulation to Request Limited Coordination for Purposes of Responding to Complaints in Related Cases (ECF No. 54).

Dated: October 30, 2024

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